

ANTIDISCRIMINATION IN EMPLOYMENT

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

EIGHTIETH CONGRESS

FIRST SESSION

ON

S. 984

A BILL TO PROHIBIT DISCRIMINATION IN EMPLOYMENT
BECAUSE OF RACE, RELIGION, COLOR
NATIONAL ORIGIN OR ANCESTRY

JUNE 11, 12, 13, 18, 19, 20, JULY 16, 17, and 18, 1947

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CONTENTS

ALPHABETICAL LIST OF WITNESSES

Barbour, Clarence, representing Students for Democratic Action, University of North Carolina.....	Page 466
Boyd, Dr. Beverley M., executive secretary, department of Christian social relations, Federal Council of the Churches of Christ in America, New York, N. Y.....	54
Bustard, Joseph L., assistant commission of education, department of education, State of New Jersey.....	355
Cardinal, Rev. Edward, C. S. Y., director, Shell School of Social Studies, Chicago, Ill.....	84
Chavez, Hon. Dennis, United States Senator from the State of New Mexico.....	21
Crozier, Harry Renge, chairman-executive director, Texas Employment Commission.....	627
Epstein, Henry, chairman, National Community Relations Advisory Council, New York, N. Y.....	447
Gauside, Charles, chairman, New York State Commission Against Discrimination, New York, N. Y.....	322
Gilbert, Robert W., co-chairman, Los Angeles Chapter, National Council for a Permanent FEPC.....	478
Goldman, Frank, national president, Final Birth, Lowell, Mass.....	221
Green, William, president, American Federation of Labor.....	483
Harrison, Gilbert, national vice chairman, American Veterans Committee.....	169
Herzberg, Ben, American Jewish Committee, New York, N. Y.....	214
Humphrey, Hon. Hubert H., mayor, Minneapolis, Minn.....	429
Hutcheson, Dr. R. H., State commissioner of health, Nashville, Tenn.....	717
Ives, Hon. Irving M., United States Senator from the State of New York.....	2
Johnson, Mrs. Elizabeth J., Washington bureau, National Fraternal Council of Negro Churches in America, Washington, D. C.....	137
Kovner, Joseph, American Civil Liberties Union, Washington, D. C.....	139
Latham, Robert, international vice president, Food, Tobacco, Agricultural, and Allied Workers Union of America, CIO.....	536, 541
Lee, Dr. J. Oscar, executive secretary, department of race relations, Federal Council of the Churches of Christ in America, New York, N. Y.....	54
Lloyd, David D., director, research and legislation, Americans for Democratic Action, Washington, D. C.....	476
Long, Raymond V., director, Virginia State Planning Board, Richmond, Va.....	621
Looney, Frank J., attorney, Shreveport, La.....	560
Mahoney, Mildred H., chairman, Fair Employment Practice Commission, Boston, Mass.....	405
Marshall, Mrs. Katharine L., Women's International League for Peace and Freedom, Washington, D. C.....	241
Masuoka, Mike M., national legislative director, Japanese-American Citizens' League Anti-Discrimination Committee, Inc.....	195
Myers, E. Pauline, national legislative representative, civil liberties department, Improved, Benevolent, Protective Order of Elks of the World.....	510
Quigg, Floyd B., editor-publisher, Wood Industries Weekly, Washington, D. C.....	638
Randolph, A. Philip, co-chairman, National Council for a Permanent FEPC, Washington, D. C.....	161
Rankin, Hon. John E., Representative in Congress from the State of Mississippi.....	678
Ray, Rev. Sandy F., chairman, social service commission, National Baptist Convention, U. S. A., Inc.....	275

Renther, Walter P., president, United Automobile, Aircraft, Agricultural Implement Workers of America (UAW-CIO)	Page 270
Rosenblum, Rabbi William F., president, Synagogue Council of America, New York, N. Y.	30
Salari, Irving, field director, Jewish Labor Committee, New York, N. Y.	601
Samuels, T. Brady, president, Miller Manufacturing Co., Richmond, Va.	608
Schoffland, Col. Charles L., national executive director, Jewish War Veterans of the United States	523
Searle, Rev. Robert W., executive secretary, human relations commission, Protestant Council of the City of New York, New York, N. Y.	260
Spence, Paulsen, president, Spence Engineering Co., Welden, N. Y.	532
Stephens, Roderick, Westchester County, N. Y.	303
Taylor, Tyre, general counsel, Southern States Industrial Council, Washington, D. C.	727
Thomas, Julius A., director, department of industrial relations, National Urban League, New York, N. Y.	217
Turner, Henry C., attorney, New York, N. Y.	322
Wadel, Mrs. Theodore O., chairman, committee on Christian social relations, United Council of Church Women, Washington, D. C.	470
Wilkins, Roy, assistant national executive secretary, National Association for the Advancement of Colored People	182
Williams, Paul D., president, Southern Regional Council, Richmond, Va.	532, 530
Wise, Dr. Stephen S., president, American Jewish Congress	153
Wolfe, Mrs. H., national committee on education and social action, National Council of Jewish Women	272
Wright, Hon. Fielding L., Governor of the State of Mississippi, Jackson, Miss.	615
Wubolg, Mrs. Sylvia, the National League of Women Shoppers, Inc.	518

I. CHRONOLOGICAL LIST OF WITNESSES

Wednesday, June 11, 1947:

Hon. Irving M. Ives, United States Senator from the State of New York	2
Hon. Dennis Chavez, United States Senator from the State of New Mexico	21
Rabbi William F. Rosenblum, president, Synagogue Council of America, New York, N. Y.	30
Dr. Beverley M. Boyd, executive secretary, department of Christian social relations, Federal Council of the Churches of Christ in America, New York, N. Y.	54
Dr. J. Oscar Lee, executive secretary, department of race relations, Federal Council of the Churches of Christ in America, New York, N. Y.	54
Rev. Edward Cardinal, C. S. V., director, Shell School of Social Studies, Chicago, Ill.	84
A. Philip Randolph, cochairman, National Council for a Permanent FEPC, Washington, D. C.	101

Thursday, June 12, 1947:

Mr. Elizabeth J. Johnson, Washington bureau, National Fraternal Council of Negro Churches in America, Washington, D. C.	137
Joseph Kovner, American Civil Liberties Union, Washington, D. C.	130
Dr. Stephen S. Wise, president, American Jewish Congress	153
Gilbert Harrison, national vice chairman, American Veterans Committee	163
Roy Wilkins, assistant national executive secretary, National Association for the Advancement of Colored People	182
Mike M. Misonaka, national legislative director, Japanese-American Citizens League Anti-Discrimination Committee, Inc.	195

Friday, June 13, 1947:

Ben Herzberg, American Jewish Committee, New York, N. Y.	211
Frank Goldman, national president, R'nal Brith, Lowell, Mass.	221
Mrs. Katherine L. Marshall, Women's International League for Peace and Freedom, Washington, D. C.	241
Julius A. Thomas, director, department of industrial relations, National Urban League, New York, N. Y.	247

Friday, June 13, 1947 - Continued	Page
Rev. Robert W. Searle, executive secretary, human relations commission, Protestant Council of the City of New York, New York, N. Y.	290
Mrs. H. Wolfe, national committee on education and social action, National Council of Jewish Women	272
Rev. Sandy P. Ray, chairman, social service commission, National Baptist Convention, U. S. A., Inc.	275
Wednesday, June 18, 1947:	
Walter P. Ruther, president, United Automobile, Aircraft, Agricultural Implement Workers of America (UAW-CIO)	270
Charles Garstide, chairman, New York State Commission Against Discrimination, New York, N. Y.	322
Henry C. Turner, attorney, New York, N. Y.	322
Joseph L. Bostard, assistant commissioner of education, department of education, State of New Jersey	355
Roderick Stephens, Westchester County, N. Y.	393
Thursday, June 19, 1947:	
Mildred H. Mahoney, chairman, Fair Employment Practice Commission, Boston, Mass.	405
Hon. Robert H. Humphrey, mayor, Minneapolis, Minn.	420
Henry Epstein, chairman, National Community Relations Advisory Council, New York, N. Y.	447
Clarence Barbour, representing Students for Democratic Action, University of North Carolina	466
David D. Lloyd, director, research and legislation, Americans for Democratic Action, Washington, D. C.	476
Robert W. Gilbert, co-chairman, Los Angeles chapter, National Council for a Permanent FEPC	478
Mrs. Theodore O. Wedel, chairman, committee on Christian social relations, United Council of Church Women, Washington, D. C.	479
Friday, June 20, 1947:	
William Green, president, American Federation of Labor	483
Irving Sabel, field director, Jewish Labor Committee, New York, N. Y.	501
E. Pauline Myers, national legislative representative, civil liberties department, Improved, Benevolent, Protective Order of Elks of the World	510
Mrs. Sylvia Whiting, the National League of Women Shoppers, Inc.	518
Col. Charles E. Schottland, national executive director, Jewish War Veterans of the United States	523
Paul D. Williams, president, Southern Regional Council, Richmond, Va.	532
Robert Latham, international vice president, Food, Tobacco, Agricultural, and Allied Workers Union of America, CIO	536
Wednesday, July 10, 1947:	
Frank J. Looney, attorney, Shreveport, La.	560
Paulsen Spence, president, Spence Engineering Co., Wadon, N. Y.	592
T. Brady Saunders, president, Miller Manufacturing Co., Richmond, Va.	608
Raymond V. Long, director, Virginia State Planning Board, Richmond, Va.	621
Harry Benzo Crozier, chairman-executive director, Texas Employment Commission	627
Floyd B. Quigg, editor-publisher, Wood Industries Weekly, Washington, D. C.	638
Thursday, July 17, 1947:	
Hon. Fielding L. Wright, Governor of the State of Mississippi, Jackson, Miss.	645
Hon. John E. Rankin, Representative in Congress from the State of Mississippi	678
Dr. H. H. Hutcheson, State commissioner of health, Nashville, Tenn.	717
Friday, July 18, 1947:	
Tyre Taylor, general counsel, Southern States Industrial Council, Washington, D. C.	727

LIST OF STATEMENTS AND COMMUNICATIONS

Page

Birnie, William A. H., excerpts from article by, entitled "Black Brain Trust".....	127
Caldwell, Hon. Millard F., Governor of the State of Florida, telegram of, in opposition to S. 984.....	559
Cherne, Leo, vice president, Freedom House, statement of, in support of S. 984.....	551
Commonwealth of Massachusetts, executive department, fair employment practice commission:	
Analysis of Massachusetts fair employment practice law.....	709
Policies.....	710
DePriest, Hudson, letter of, in opposition to S. 984, and newspaper clipping entitled "Connecticut Goes 'Negroid'".....	554
Doasett, Burgin E., commissioner of education, State of Tennessee, brief on educational provisions and opportunities in Tennessee.....	718
Huas, Most Rev. Francis J., bishop, diocese of Grand Rapids, letter of, in support of S. 984.....	353
Hollman, Charles, district governor, Employment Agencies Protective Association, letter and brief of, in opposition to S. 984.....	548
Howden, Edward, executive director, Council for Civic Unity of San Francisco, statement of, in support of S. 984.....	544
Illinois Council for a State Fair Employment Practices Law, statement of, in support of S. 984.....	349
Jones, Brownie Lee, chairman, Richmond FEPC Committee, telegram of, in support of S. 984.....	550
Leff, Harold A., article by, entitled "Employment: A Civil Right in New Jersey".....	384
Lohman, Joseph D., associate director for race relations, Julius Rosenwald Fund, statement of, in support of S. 984.....	350
McGill, Ralph, editorial by, entitled "There Ought Not To Be an FEPC Law," from the Atlanta Constitution, June 22, 1947.....	557
Murray, Hon. James E., United States Senator from Montana, speech of, in the Senate of the United States, entitled "American Policy Platform of American Veterans Committee".....	100
National Alliance of Postal Employees, statement of, in support of S. 984.....	348
National Alliance of Postal Employees, Educational Committee, statement of, in support of S. 984.....	340
New Orleans States, editorial of, entitled "FEPC Is a Threat to Workers," dated June 9, 1947.....	559
Rankin, Hon. John E., Representative from the State of Mississippi, speeches of, in the House of Representatives, February 13, 1947, and July 12, 1945.....	078, 083
Rockefeller, Nelson A., letter of, in support of S. 984.....	548
Shellenberger, George, executive vice president, Merchants and Manufacturers Association, letter of, in opposition to S. 984.....	543
State of New Jersey, department of education, division against discrimination:	
Rules of practice.....	706
Primer for the public on the New Jersey law against discrimination.....	708
State of New York, State commission against discrimination:	
Rules governing practice and procedure before the State commission against discrimination.....	697
Rulings.....	703
General regulation.....	706
Tuttle, Charles H., vice chairman, New York City Council, State commission against discrimination, brief submitted by, in support of S. 984.....	34
Wise, Dr. Stephen S., president, American Jewish Congress:	
Chief points of difference between Ives bill (S. 984, 80th Cong.) and National Labor Relations (Wagner) Act.....	157
Chief points of difference between Ives bill (S. 984, 80th Cong.) and Ives-Quinn law against discrimination (New York Statute Laws, 1945, ch. 118).....	158
Chief points of difference between Ives bill (S. 984, 80th Cong.) and Chavez bill (S. 101, 79th Cong.).....	159
Young Women's Christian Associations, statement of, in support of S. 984.....	552

APPENDIX

	Page
Cooke, Grace E., executive secretary, National Employment Board, statement of, in opposition to parts of S. 984.....	757
Darr, Rev. John W., Jr., executive secretary, United Christian Council for Democracy, New York, N. Y., statement of.....	760
Foreman, Clark, president, Southern Conference for Human Welfare, statement of.....	761
Komy, Robert W., president, National Lawyers Guild, statement of.....	762
Leonard, Harry E., business manager, local union No. B-160, International Brotherhood of Electrical Workers, resolution in support of S. 984.....	767
Liberal Party of New York State, statement of.....	767
Merchants and Manufacturers Association, Los Angeles, Calif., statement of.....	769
Mitchell, Clarence, labor secretary, National Association for the Advancement of Colored People, letter of.....	770
Richardson, Thomas, international vice president, United Public Workers of America, CIO, statement of.....	770
Rieberg, Donald R., commentary on S. 984.....	794
Sands, Charles E., international representative, Hotel and Restaurant Employees' International Alliance and Bartenders' International League of America, letter of.....	772
Schutzer, Arthur, State executive secretary, American Labor Party, New York, N. Y., statement of.....	773
Schwellenbach, Hon. Lewis B., Secretary of Labor, letter and statement of.....	774
Selvin, Mrs. Edwin, chairman, Women of the Pacific, Beverly Hills, Calif., statement of.....	779
Spence, Paulsen, Spence Engineering Co., Walden, N.Y., letter of.....	781
Statement of proposed amendments of Constitution of the State of California.....	783
Umhey, Frederick F., executive secretary, International Ladies' Garment Workers Union, New York, N. Y., statement of.....	790
Vessels, Alma, R. N., executive secretary, National Association of Colored Graduate Nurses, Inc., New York, N. Y., letter of.....	791
Virkus, Fred A., chairman, Conference of American Small Business Organizations, Chicago, Ill., letter of.....	792
Wagner, Rev. O. Walter, and Rev. Charles A. Hill, cochairmen, committee for a State FEPC, Detroit, Mich., statement of.....	793
Senate bill S. 984.....	794

ANTIDISCRIMINATION IN EMPLOYMENT

WEDNESDAY, JUNE 11, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to call, at 9:30 a. m., in the committee room, Capitol Building, Senator Forrest C. Donnell presiding.

Present: Senators Donnell (presiding), Smith, Ives, and Ellender.

Senator DONNELL. Let the record show that at 9:30 a. m., June 11, 1947, in the Office of the Committee on Labor and Public Welfare (old Military Affairs room) in the Capitol, Washington, D. C., a public hearing on S. 984, a bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry, was called to order by the chairman of the subcommittee which is to consider said bill.

Let the record further show that the following is a quotation from the official minutes of the committee clerk of an executive meeting of the Committee on Labor and Public Welfare held on April 17, 1947:

The subcommittee, consisting of Senators Donnell (chairman), Smith, Ives, Pepper, and Ellender, was appointed to consider Senate bill 984, a bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry.

Let the record further show that Senator Pepper, at his own request, has been withdrawn from the subcommittee as originally appointed and that Senator Murray has been named to that subcommittee in his stead.

Let the record further show that, as disclosed on page 4607 of the Congressional Record, there was made on Monday, May 5, 1947, to the Senate the following announcement by the chairman of this subcommittee:

Mr. President, announcement is hereby made that the subcommittee of the Committee on Labor and Public Welfare, which consists of Senators Smith, Ives, Murray, Ellender, and myself, of which subcommittee I am chairman and which is to consider Senate bill 984, will begin open public hearings with respect to the bill on Wednesday, June 11, 1947, at 9:30 a. m.

The hearings are scheduled to be held in the office of the Committee on Labor and Public Welfare—old Military Affairs Committee room—in the Capitol. It is hoped that the hearings may be completed in a period of 6 days, consisting of June 11, 12, 13, 18, 19, and 20.

Senate bill 984 is a bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry.

It is the desire of the subcommittee to hear both sides relative to the bill. Any person desiring to suggest the name of anyone to appear before the subcommittee should communicate with Mr. Philip R. Rodgers, clerk of the Committee on Labor and Public Welfare.

Let the record further show that the hearing which has at 9:30 o'clock this morning been called to order is a public hearing.

Let the record further show that the following is a copy of S. 984 here set out. The hearing will stand in recess for a time this morning awaiting the call of the Chair.

(Whereupon a short recess was taken.)

Senator DOXSELL. The committee will again be in order.

There are present at this time Senators Smith, Ives, Ellender, and the chairman of this subcommittee who is advised that Senator Murray has another meeting this morning and will not be here.

The first witness to be heard is the Honorable Irving M. Ives, United States Senator from New York.

Senator Ives, will you please take the stand and give us your statement with respect to S. 984.

STATEMENT OF HON. IRVING M. IVES, A UNITED STATES SENATOR FROM NEW YORK

Senator IVES. Mr. Chairman and members of the committee, over the years legislation aimed to eliminate discrimination in employment because of race, religion, color, national origin, or ancestry seems to have fallen largely into three main categories.

First, there is the punitive type of legislation which, by heavy fine and imprisonment, would seek to gain the objective that is sought.

Second, there is the educational type of legislation which, without penalty, and through conference, conciliation, persuasion, and an over-all education approach, seeks to produce an attitude and condition which in themselves will cause the elimination of discrimination.

Third, there is the type of legislation which combines in moderation both of the foregoing approaches. In this third category penalties are at a minimum and emphasis is placed largely on the voluntary processes of mediation, conciliation, conference, persuasion, and the general enlistment of representative public-spirited citizens in the local communities, in an organized effort through so-called advisory or conciliation councils, to engage in a broad informal educational program for the purpose of making not only the letter, but the spirit, of the law accepted and observed.

Senate bill 984, which, if enacted, would become the National Act Against Discrimination in Employment, belongs in the third category I have just indicated. By the terms of this bill, the penalties are moderate but sufficiently stiff to insure their receiving attention by those whom they would affect. At the same time, the possibilities for obtaining compliance through action by voluntary processes are almost without limit.

In fact, mediation, conciliation, conference, and persuasion are compulsory in the first instance. This requirement, coupled with the broad intensive program of education which the bill contemplates, should make it wholly effective, without the exercise of its penalty provisions.

It is not my purpose at this time to give a résumé of the contents of this bill. This will be handled by others who will appear at these hearings. There are connected with it, however, several important matters which I would emphasize.

Now I depart from my prepared mimeographed statement. In the first place, as the bill itself states, if enacted, it would serve, and I quote from the bill:-

as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote—

and now I quote from the Charter itself:

to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

The great significance of this aspect of the bill should be obvious to everyone.

In the second place, there is no longer ground for doubt that legislation of this kind can be made to function effectively, fairly, and satisfactorily for all concerned. Right now in the States of New York, Massachusetts, and New Jersey statutes of this same nature are in effect and are operating satisfactorily.

Senator DONNELL. Senator Ives, are you familiar with the act in the State of Wisconsin?

Senator IVES. I was just going to bring that up. While this is not in my written statement, I understand that Wisconsin, Connecticut, and Indiana each has an act. The Wisconsin act has been in effect since 1943 but is of an entirely different type. I am not familiar with it, but I doubt that it covers this matter at all as is contemplated here. The question has been covered in the States that I named. However, Connecticut and Indiana enacted legislation during this current year. Indiana's, I think, went into effect on February 27 last and Connecticut's will go into effect on July 1 next, along the same lines as are contemplated in this particular bill, along the lines of the acts in New York, New Jersey, and Massachusetts. However, the experience of those last two States is not sufficient to prove of great value in the consideration of this particular legislation. It is the States that I have named that have had the experience—that is, the States in the written document which I have mentioned that have had the real experience in this field to date.

Senator DONNELL. That is, New York, New Jersey, and Massachusetts.

Senator IVES. That is right.

Senator ELLENDER. Senator Ives, why isn't it a better idea to let the States handle this matter?

Senator IVES. Why isn't it a better idea?

Senator ELLENDER. Yes; why is it necessary in New Jersey, New York, and other States?

Senator IVES. This is a matter, Senator Ellender, that transcends to a great extent State lines. It is a good thing to have the States do it, State by State, as long as the Federal Government is not doing it, but it has been my feeling right along that this thing is right, and if it is sound, it shouldn't be limited to any particular State line. I don't think that State lines should be the determining feature about it.

Senator ELLENDER. I can well understand that New York might need it. Virtually 50 percent, if not more, of foreigners who come to these shores make their home in the State of New York or nearby.

Senator IVES. I don't believe on the over-all average that is quite accurate.

Senator ELLENDER. Maybe not at the moment, but that is what it has been. New York, we recognize, is the melting pot.

Senator IVES. New York had a large percentage of emigrants in the past few years.

Senator ELLENDER. Don't you think this matter is more or less a question of education?

Senator IVES. That is what I have indicated here, and I shall indicate that more fully as I progress, and that will come out in this whole testimony, I assume, which will be presented in these hearings. It is not the method of compulsion which is the one that solves this problem, not legal compulsion. It is the other approach.

Senator SMITH. Mr. Chairman, I assume we are going to have testimony from the States Senator Ives mentioned—that is, New York, Massachusetts, and New Jersey—with regard to the way this program in those States has worked. I assume that will be the case, unless Senator Ives is prepared to testify about the New York situation.

Senator IVES. I am not. I could give you some ideas, but I would rather have those who are directly connected with it do it. They can give you the latest information about it, which I can't.

Senator SMITH. I think you are quite right. I think we should have testimony from witnesses who are right on the ground.

Senator DONNELL. I observe that Senator Saltonstall is one of the sponsors of this bill. Do you know, Senator Ives, whether he contemplates producing anyone from Massachusetts?

Senator IVES. I understand he does.

Senator ELLENDER. I understand, Senator Ives, that you are the New York father of this law.

Senator IVES. Yes.

Senator ELLENDER. What prompted you?

Senator IVES. Do you want me to go into that now on this record?

Senator ELLENDER. Surely.

Senator IVES. You are going to get a long sermon, and time is of the essence.

Senator ELLENDER. Well, you are the father of that one, and I am wondering what prompted you to foster this one? You must be familiar with conditions all over the country to suggest it as a Federal law. I presume that existing problems in New York were the determining factors in your decision to experiment with it there, but I think it might be well for the committee to have in the record a comparison of the situation in New York in contrast to what it might be in Montana, what it might be in Nevada, Nebraska, Louisiana, Mississippi, and other States.

Senator IVES. Let's get down to New York first. We'll get to the other States subsequently. In the first place, the matter of deciding or determining upon legislation of this kind was before the Legislature of the State of New York for a number of years before the commission which I had the honor of heading was named.

Senator DONNELL. What was that commission, please?

Senator IVES. The New York State Temporary Commission Against Discrimination, which was created in 1944.

Senator DONNELL. By whom was that commission appointed?

Senator IVES. The commission was appointed both by the legislature and by the Governor—a commission of 23. Eight were appointed by the legislative leaders and the other 15 by the Governor. The reason

I became associated in this particular field, I assume, was because of my previous activities in the field of labor relations. This thing deals primarily with human relations. It is the most delicate part of human relations—discrimination. So, too, labor relations. It is all part of the same field.

When it was finally decided to have a commission of that type created for the purpose of ascertaining what might be done by legislation or otherwise to meet the problem, I was requested by the Governor to serve on the commission, to take the chairmanship. I didn't want to do it.

Senator ELLENDER. That was in '41, wasn't it?

Senator Ives. I think it was in '41. Wait a minute. Yes; that was in '41.

Senator ELLENDER. Well, how long before that time was this question agitated in the State of New York?

Senator Ives. New York has had laws against discrimination on its books ever since 1909. Every aspect, I think, of discrimination in one way or another is covered by New York statutes. The only thing that hadn't been touched satisfactorily was the question of discrimination in employment. There was nothing in the statutes of the State which met that situation satisfactorily. That is why it was decided that something ought to be done in the way of additional legislation, if that was deemed advisable, or by other processes.

Senator ELLENDER. What was the nature of the statutes that were passed, as you say, in 1909 and on up?

Senator Ives. Well, they covered discrimination in education, discrimination in public places, places of amusement, hotels.

Senator ELLENDER. Marriage?

Senator Ives. No. Let's get this out of our system. This has nothing to do with social relationships. That is not the purpose of this bill.

Senator ELLENDER. What isn't?

Senator Ives. This legislation. It is not the purpose of this bill. It is not the purpose of any legislation on the statute books of the State of New York and, though I don't know, I am not very well acquainted with other State statutes concerning these matters, but very likely not in any of the statutes of any other State.

Senator ELLENDER. But New York does permit marriage between colored and whites.

Senator Ives. I assume so. I never knew of any law against it there.

Senator ELLENDER. Well, that was what you had in mind a moment ago, when you said since 1909 New York had passed statutes along this line.

Senator Ives. I didn't mean that particular statute. I don't think New York has ever had on its statute books since it has been a State in the Union anything to prohibit that kind of marriage; at least I don't know of it.

Well, I am correct on that about marriage. I have a whole list of New York laws here. It will take some little time to read them, if you care to have me do it. I think we might better leave that for the committee's private consideration rather than to use the time in which these other witnesses might better be heard.

Senator ELLENDER. I have no desire to go into the statutes, but I was anxious to determine what brought this about.

Senator Ives. All right, that is a very legitimate question as to why I got tangled into it. I personally thought it was a question that couldn't be solved. That is, I don't know whether I thought that, but I feared that it was—that it couldn't be solved by legislation.

Senator ELLENDER. That it could?

Senator Ives. That it could not be solved by legislation. I am talking now about discrimination in employment. Let's just confine ourselves to this particular field. We are not in any other field in the matter. Well, I took the chairmanship after some delay and with great reluctance, because I figured that that would be the end of me politically, but I figured at the same time that I would have to retire from politics sometime and that might be a good way to do it because it was a very worthy cause. That is how I got into it.

Then I insisted, at the same time, that of the eight members to be picked from the legislature, four be Democrats and four be Republicans, so that we might get politics out of it.

Senator SMITH. If I may interrupt, I observe that you haven't retired from politics yet.

Senator Ives. Well, a year ago, I thought I had when I got into Cornell, but I seem to be here. Now I don't know the political complexion of the other 15. I never inquired and I haven't the remotest idea whether they are Republicans, Democrats, or what they were. Suffice it to say, politics was entirely out in our consideration of this question, as it should be. I am dealing with that slightly in this prepared statement.

We went to work, everyone of us, sincere in our belief, and you have got to have a fundamental sincerity in this thing. You have got to believe that, basically, there should not be such a thing as discrimination because of religion or race or color or national origin or ancestry. If you don't accept that hypothesis—and it is not a hypothesis; in reality, it is a fundamental principle of living—if you don't accept that, you never can meet this thing head on and solve it, as it ultimately can be solved. We took that position.

It didn't look very encouraging to start with. We had on that commission representatives of all religions and all nationalities and races in the State of New York, and we had all kinds of ideas as to how it should be done. Talk about Heinz pickles, the only reason we didn't have 57 was that we only had 23 to start out with.

Senator ELLENDER. When you first started out, if I understood you correctly, you didn't think it could be done by law.

Senator Ives. No. I said I did not think the approach could be done by that process. Very likely the experience that I went through, Senator Ellender, was the experience that you are now in at the present time. I didn't think it could be done by statute, I will be perfectly honest with you; but as time went on and as we went into this business, one way and another, and as our thinking gradually grew together, it became evident that it could be done, and after we found that it could be done, of course, we had to draft the statute which I am dealing with to a limited extent in this prepared statement.

I simply want to point out that the great obstacles which we were confronted with in that instance are mentioned here in what I have to say, and they are the obstacles that are going to confront us here in Washington. They have been met in New York, and if they have been met and solved there, they can be met and solved elsewhere.

Senator SMITH. Shouldn't we emphasize all the way through the equality of economic opportunity?

Senator IVES. That is exactly it, and that is all this bill deals with.

Senator SMITH. It is limited to that.

Senator IVES. Discrimination in employment, equality of economic opportunity. That is all it deals with, nothing else. May I continue, Mr. Chairman?

Senator DONNELL. Proceed.

Senator IVES. Actually Senate bill 981 is patterned after the New York statute. In effect, it is the New York plan applied to the Federal level.

In fact, the one who largely drafted the New York State law against discrimination is the one who has largely drafted the bill we are now considering. He is one of New York's most distinguished citizens, the Honorable Charles H. Tuttle, of New York City. He had planned to be on this morning's program, but last night, unfortunately, on his way to the train he had an attack—he is having some difficulty with his liver—and had to be taken directly to the hospital, and that is where he is at the present time. He will be laid up there at least several days, probably the rest of the week.

Senator DONNELL. If I may interrupt, I may state for the benefit of the committee that I have requested Senator Ives to express the very great regret of the members of this committee at the inability of Mr. Tuttle to be here and our hopes for his speedy recovery.

Senator IVES. Thank you, sir. I shall do that. He did send, however, his written statement, well documented, which I think is well worth the consideration of the committee when the members have time to look at it.

Senator DONNELL. Will you state briefly for the record the background of Mr. Tuttle, what his official connections have been and what his general background is?

Senator IVES. Well, if I were to cover all of Mr. Tuttle's background, I would cover quite a lot. I will simply say he is among the leaders of the New York Bar.

Senator DONNELL. What official title did he hold?

Senator IVES. He was Federal attorney for southern New York at one time. He was a Republican of such eminence that he ran for governor in 1930 and was defeated, as the record will indicate. However, that was nothing against Mr. Tuttle. The oncoming leader of the Democratic Party was then Governor of the State of New York and a very difficult person to defeat (laughter). He has been very active as a layman through the instrumentality of the Inter-Church Movement. He is a very strong and active Episcopalian, but as a layman, he has been very active in the various movements carried on through the combined church activities, not of the Protestants alone, all of them, in combating discrimination and everything pertaining to discrimination, not only nationally, but internationally. He probably has in this field as good a background as has any person in the United States.

Senator ELLENDER. Mr. Chairman, I think this committee should by all means hear Mr. Tuttle when he gets better.

Senator IVES. He probably comes as near being a real authority in this country on this subject as anyone.

Senator ELLENDER. I think it is essential that we hear him.

Senator DONNELL. I would be very anxious to have him here, Senator Ives, and I hope you can arrange, with due regard to his health, of course, to have him here.

Senator IVES. He will be very glad to appear, because his heart and soul are in this particular legislation. I want to say that he is about 70 years of age and he has no political ax to grind because, like some of us, he believes in it, and you have got to believe in this thing or you can't go at it properly.

The New York law has been in operation for almost 2 years, and I am informed that during this period of time, not one penalty has been imposed and not even one case has gone to court. The record of New York is indeed impressive and will be fully covered by the present chairman and the former chairman of the New York State Commission Against Discrimination, who are to appear at a later date during these present hearings. Suffice it to state, however, that the experience of New York State has already demonstrated that this kind of law can be made to work as it is intended to work.

There are, no doubt, some who may question the possibility of creating a commission, as provided in this bill, whose members will administer the statute fairly and properly. I can understand this kind of doubt in the mind of any person. As a matter of fact, it was the biggest obstacle which had to be overcome at the time the New York bill was being considered by the legislature of that State. However, again the experience of New York has proved beyond question that it is possible to choose a commission whose members can and will meet the requirements I have cited.

The New York commission consists of five members who come from the white and Negro races, the Catholic, Jewish, and Protestant religions, management and labor, and both sexes. They were selected, moreover, without regard for their affiliation in any political party. Although I am not sure about the party affiliation of every one of them, I do know that two of them are Democrats and that all of them were chosen by a Republican Governor with the advice and consent of a Republican State senate. Every one of them has been doing an outstanding job in the most delicate arena in the field of human relations. If this high quality of commission can be obtained in New York State, surely a commission of equally high caliber can be obtained in the Nation.

I realize that it is not necessary for me to remind the members of this committee of the basic justice inherent in this bill. Two of you, Senator Smith and Senator Murray, are with me cosponsors of the bill. All of you are men of good will.

No man should be deprived of the right to earn a living because of his race, religion, color, national origin, or ancestry. Discrimination in employment is contrary to all that is fundamental in our American creed. That is what this bill deals with—the right to work, regardless of one's race, religion, color, national origin, or ancestry.

This right, as all of us know, is fundamental in religion. It is a part of the Sermon on the Mount, and of the Two Great Commandments and of the Golden Rule. The Declaration of Independence gave it new life, the Constitution of the United States presumably guarantees it. And yet, our failure as a Nation to live up to it constitutes the gravest anomaly in our American tradition.

We may differ among ourselves on how to meet and overcome this so-called American dilemma, but at the same time we must recognize that it has to be met and that it has to be overcome. I firmly believe that the bill we are now considering offers the soundest and most effective plan thus far devised, by which to solve the problem of discrimination in employment.

Senator DOXNELL. Senator Ives, you state it is not your purpose at this time to give a résumé of the contents of this bill, that this will be handled by others who will appear at these hearings in addition to Mr. Tuttle. Who is it that you contemplate will explain the details of the contents of the bill?

Senator IVES. I think probably that will be confined largely to Mr. Tuttle himself. While I am on this subject, if there is anybody that desires to have further information concerning the contents of the bill, I assume we can get others to testify on it, but I think that you will find, when I said others, I presumably meant another, although there may be among those who are to testify some who will want to comment on the bill itself and its contents. That is why I didn't restrict myself to the singular.

I wonder if I might file with the committee as an exhibit the report of the New York State Temporary Commission Against Discrimination?

Senator DOXNELL. I understand Senator Ives will file the document with the committee as a part of its records.

Senator IVES. Yes.

Senator DOXNELL. Senator Ellender, do you desire to ask Senator Ives some questions?

Senator ELLENDER. Senator Ives, were you chairman of this commission?

Senator IVES. Yes, sir; chairman of the temporary commission.

Senator ELLENDER. How long did the commission sit before it finally decided to draft the bill?

Senator IVES. We started operations in the early summer of 1944, and we first had to decide on whether we were going to have a bill or not. It was tough to make that decision. Fortunately, the State of New York, under its war acts of one kind or another, had established previously a temporary committee on discrimination in employment under the New York State War Council, which had had a substantial record of activity and experience, and we could draw on that to get the information as to conditions as they existed in the State at that time, and thereby avoided a great deal of survey and investigation by the temporary commission. That we did, which enabled us to have at the start pretty good first-hand information on the conditions in New York State. So that our problem in the beginning was how to meet those conditions, whether we should attempt to do it by statute or whether we should attempt to take some other course. So what we did was to draft a bill out of whole cloth.

Senator ELLENDER. When did you become convinced that it could be done by legislation?

Senator IVES. During the course of the hearings on the bill that we drafted. That is what I am coming to, Senator.

Senator ELLENDER. I thought you said the first thing the commission did was to decide whether or not it could be done by law.

Senator Ives. That is right, whether or not it could be done by a statute. There is a big difference as to whether it can be done and as to whether it should be done.

Senator DONNELL. Well, was your doubt a constitutional one?

Senator Ives. My doubt was one of feasibility as to whether it was workable or whether it was a practicable approach to the thing by statute. That was my doubt, and I hadn't had any experience in the field at all, that is, in this particular field of human relations. Naturally, I was one of those who were open to conviction on the matter of approach.

I knew it could be done by statute. That is, the attempt could be made by statute, but the question arose as to whether it should be done, and in order to find out whether it should be done, we had to draft this statute, this bill, which we did. We held hearings all through the fall.

Senator ELLENDER. When did you decide that, before or after you held the hearings?

Senator Ives. Decide what?

Senator ELLENDER. That it could be done by statute.

Senator Ives. We decided it could be done before we held the hearings; otherwise there wouldn't be any point in holding the hearings if we decided it couldn't be done that way.

Senator ELLENDER. You say there were no constitutional inhibitions. It was a question of what?

Senator Ives. There couldn't be any constitutional inhibitions. The constitutional part of it goes in the opposite direction from any inhibitions.

Senator ELLENDER. What was it that made you doubtful as to whether or not that could be done?

Senator Ives. The question of approaching this matter through statute with the necessary legal compulsions that a statute might entail.

Senator ELLENDER. And that was decided by you and your commission before you started the hearings.

Senator Ives. No.

Senator ELLENDER. After?

Senator Ives. The question as to whether it should be done was decided afterwards.

Senator ELLENDER. Well now, to what extent did your commission hear cases in the State of New York to convince you that the course you took was a proper one?

Senator Ives. That it would be a proper one, you mean?

Senator ELLENDER. Yes.

Senator Ives. Well, as I said before, we had the complete record of the temporary committee on discrimination in employment which had been operating through the war under the New York State War Council. That was a committee similar to the Federal FEPC. We had their record of experience, which was very complete.

Senator ELLENDER. You also had the one in Washington.

Senator Ives. We had case after case after case in the State of New York before us. So we knew what the situation was in those particular instances.

Senator ELLENDER. You had the one in Washington here, did you not?

Senator Ives. We had that one to draw on, but we didn't need to. We had our own.

Senator ELLENDER. As a matter of fact, didn't what was happening here in Washington form a basis for the whole problem in New York?

Senator IVES. No. We had our own, I guess, even before that, as far as the war was concerned. At least ours, I assume, was created simultaneously with that.

Senator ELLENDER. How long before the war did the situation exist?

Senator IVES. In New York State?

Senator ELLENDER. Yes.

Senator IVES. Well, I think it probably existed for a great many years.

Senator ELLENDER. When did it first come to your attention as a legislator?

Senator IVES. You mean for action as a legislator?

Senator ELLENDER. Yes.

Senator IVES. We had bills of one kind or another before the legislature in previous years prior to 1944, when the temporary commission was created, I would assume during all the period I was in the legislature, which was from 1930 on. At one time or another, bills of this character had been presented.

Senator ELLENDER. Did your commission hear any cases of discrimination?

Senator IVES. Yes; sure.

Senator ELLENDER. To what extent?

Senator IVES. Well, to the extent that we found out what the situation was, both pro and con, in connection with the alleged discrimination.

Senator ELLENDER. Did your commission travel about the State?

Senator IVES. Yes. It held hearings in all of the large centers of the State.

Senator ELLENDER. And cases of discrimination were brought to your attention?

Senator IVES. Yes; that is correct.

Senator ELLENDER. By whom?

Senator IVES. By the witnesses who appeared. Some of the witnesses were people who had been discriminated against or claimed they had been discriminated against.

Senator ELLENDER. Can you give us a few glaring cases of discrimination?

Senator IVES. Can I give you a few?

Senator ELLENDER. Yes, that registered on your mind during the hearings.

Senator IVES. No; it is too long ago. I don't think any particular one stands out above any other. The cases that were presented were all more or less of a similar pattern, where the person alleged that he had been discriminated against because of race or religion or nationality.

Senator ELLENDER. Did education come into the picture?

Senator IVES. No. That hasn't anything to do with this subject. You want to bear in mind in dealing with this subject that you are dealing with something where you are discriminated against because of your race, religion, color, national origin, or ancestry. If there is an educational variation there, that is something else. That doesn't enter into this.

Senator ELLENDER. Did the complainant give specific testimony that the employer discriminated against him because of his race?

Senator Ives. Well, they gave testimony to the extent that they indicated that there had been discrimination because of that; that is, the allegation was on that basis. You see, we weren't out as a commission to solve those particular cases; that wasn't our function. Our function was to find out what the situation might be.

Senator ELLENDER. But still in all, you were in search——

Senator Ives. We were in search of information.

Senator ELLENDER. Of cases for information.

Senator Ives. Yes; of the type that would fall within the purview of the statute; that is right.

Senator ELLENDER. Well now, to what extent did employers appear before your committee?

Senator Ives. I would say all of the representative groups of employers in the State appeared at one point or another on the committee agenda. I don't recall a single hearing we held where an employer didn't appear on one side or the other. They weren't all against it. There were a great many employers that were for this type of set-up.

Senator ELLENDER. That was the next question I was going to ask you. What proportion would you say of the employers who appeared were for the bill?

Senator Ives. Why, it is hard to say. I don't think any record was ever kept. I would say of the employers appearing for and against, the ratio was probably two against to one for the bill. However, I think you will find that today, if we were to have the same kind of hearings in the State of New York, that the ratio would be reversed, considerably more than reversed, because the experience under the New York statute over these last 2 years has shown employers right and left that it can work satisfactorily and that they have nothing to fear from it. Oh, to be sure, there is criticism here and there; there is bound to be. You never saw a statute dealing with a controversial subject where there wasn't any criticism, but the criticism is at a minimum.

Senator ELLENDER. To what extent did any of the employers who appeared testify that they discriminated against their employees because of race or color?

Senator Ives. That they discriminated against employees?

Senator ELLENDER. Yes.

Senator Ives. Well, they would naturally never admit it.

Senator ELLENDER. Did your commission attempt to find out from the employers the extent to which they discriminated or did they depend entirely on——

Senator Ives. Yes, Senator.

Senator ELLENDER. The testimony of the employees?

Senator Ives. Yes; we had the testimony of the employees, as well as the employers, in the same outfits. We had a very complete record, you see, as a result of the activities of this temporary war council committee which had been functioning for 3 years prior to the activities of our temporary commission, and we did go into that and got all the facts necessary on that.

I want to say this in connection with the employers: That where the objection came from employers at that particular time—I can't answer as regards that at the present moment, because this was 2 or 3 years

ago—but where the objection arose from employers, many of them—not all, but many—they insisted they had no objection to it so far as they were concerned. They would never discriminate so far as they were concerned. They feared this on account of their employees, that their employees wouldn't want to go along on the idea, and that has been one of the very interesting experiences of the permanent commission in the educational program which has been promulgated in connection with this, showing how there has been employee resistance to this kind of act which has been overcome by experience and by that type of approach. So you don't have that to fear.

Senator DONNELL. Senator Ives, was the contention made that employers have a right to select whom they might desire to employ and if for any reason they want to select John Smith and leave off Tom Jones have that right?

Senator IVES. Yes.

Senator DONNELL. What view did the commission take with respect to that contention?

Senator IVES. We didn't argue about the right of an employer to select employees, except we maintained steadfastly that he should not refuse to select an employee solely because of his race or his religion or his color or his national origin or ancestry. That contradicted the fundamental concept of our whole American establishment.

Senator ELLENDER. Well, now, who is to determine that, if not the employer?

Senator IVES. Who is to determine what, Senator?

Senator ELLENDER. I mean that question as to whether or not a refusal to employ was made on the basis of religion.

Senator IVES. Well, that is one of the things that the permanent commission has been checking on, as cases of alleged violation have come to its attention, and the commission itself in the hearings which it has held on matters of that kind have determined whether or not there has been discrimination for that reason.

Senator ELLENDER. Well, how is that to be determined if the employer should deny that that is the case?

Senator IVES. The employer can deny it easily enough, but I mean you always have evidence surrounding a thing of that character which indicates whether or not there is any truth to the denial.

Senator ELLENDER. Did you have any actual case of discrimination as between employer and employee and then did your commission follow that case through to determine the extent to which there was discrimination?

Senator IVES. We did in one or two cases of that kind. We, as I said earlier, didn't have to any extent at all, for a very simple reason. We had this other record, which was a very complete record of all cases of that character before us.

Senator ELLENDER. That is, a record similar to what you had here in Washington?

Senator IVES. Yes; under the State statute of a temporary war emergency nature.

Senator ELLENDER. But the commission itself, as I understand it, depended largely on what had been previously done by this temporary commission in New York—

Senator IVES. Temporary committee.

Senator ELLENDER. Yes; and other commissions such as that.

Senator IVES. Well, we could depend on it, don't you see, because the record was so complete there. I mean had it not been for the experience of that temporary committee—let's get this difference here; one is a committee, the other is a commission—the temporary commission would have been obliged probably to have spent at least an additional year before it could have reached any conclusion, first, as to whether a bill could be drafted to meet the situation and then as to whether it should become effective.

Senator ELLENDER. Mr. Chairman, I have no further questions to ask Senator Ives, but I repeat, I would appreciate it very much if just as soon as Mr. Tuttle gets well, and I hope he gets well soon, he will come up here so that we can interrogate him. I recall the fact, as Senator Ives pointed out, that he is very closely connected with this problem, and he may be regarded, from what Senator Ives has said, as a father to the present bill modeled after the New York statute.

Senator IVES. One of us is a father and the other is a mother. Either way you want to call it is all right with me. [Laughter.] What I want to point out is you are going to have two others at least from New York who will be appearing and who can give you more specific information than I can, Senator Ellender, on the questions you are raising. You are going to have the present chairman of the commission and the past chairman of the commission. There has just been a switch this spring, and the former chairman, Mr. Henry J. Turner, who was formerly head of the educational system in New York City and who fathered this operation during its first year and three-quarters of its activities, can give you a pretty good idea as to the way this thing works and can answer the questions, I know, very satisfactorily that you have raised with me.

Senator ELLENDER. I really think that what the committee ought to do before passing on this bill is to have presented for experimentation a few of these glaring cases already investigated in New York and call the employers here to find out the extent to which there is discrimination.

Senator DONNELLY. Senator Smith, have you any questions to ask?

Senator SMITH. Senator Ives, as one of the sponsors of this bill with you, as I mentioned heretofore to you, I have been troubled with what I think is the crux of legislation of this kind, namely, that it isn't possible to create happy human relationships by any laws that we can pass. Those are things that are definitely matters of the spirit, you might say, and yet in this bill and in the New York legislation and our legislation in New Jersey, we felt it necessary to have some sort of legal sanctions.

I notice in your testimony that you say there is no case that you know of so far as the New York experience is concerned that has ever had to be taken to court.

Senator IVES. Not that I am aware of.

Senator SMITH. Therefore, the stress has been on the educational features of this bill.

Senator IVES. The educational features plus the compulsory conciliation, conference, and persuasion.

Senator SMITH. When you say compulsory mediation, do you think you need legal sanctions to compel the people to get together and try to mediate?

Senator Ives. Oh, yes. You have to have that, otherwise many wouldn't. In most instances they would, but in some they wouldn't.

Senator SMITH. That brings me to the next question, whether, in your judgment of the stage we have arrived at in dealing with this very delicate subject, it would be possible to have legislation of this kind without putting in the alleged bugbear of legal sanctions?

Senator Ives. No. I will tell you why you can't do it. It is a very simple answer. Those who don't want to observe it wouldn't pay any attention to it.

Senator SMITH. Well that, to my mind, is the big question involved in this whole business, because I think if we read through the purposes of this bill, which aim and state very clearly what we are dealing with here, as you said before, an equality of economic opportunity, we believe that is a fundamental basis of our institutions, but the big issue is how you can bring it about and whether you can legislate a situation that will bring about happy human relations. Even if you do apply the law and put the pressure of legal sanctions on people, that doesn't make happy relations necessarily.

Senator Ives. I want to tell you, Senator Smith, that that was the thing that had to be hurdled in the New York Legislature, because we didn't have any proof of that nature when that bill was before the New York Legislature. We have it today by the experience of New York and I think your State and Massachusetts, too.

Senator SMITH. I am very happy to say that we expect to have witnesses from my State of New Jersey who will tell us the experience in New Jersey, but I think in New York no case has been necessary to take to the court.

Senator Ives. They have handled it through mediation and conciliation.

Senator ELLENDER. That was on a voluntary basis, was it not, Senator?

Senator SMITH. No. We have legal sanctions there the same as they have in the New York law, to take people to court if they defy the cease-and-desist order, but we have never had to use it. It has been working out by mediation and conciliation.

Now, Senator Ives, as I read our bill, going over it again, sections 7 and 8 are the two sections that involve this very delicate question. Section 7 is under the general heading of "Prevention of unlawful employment practices," and gives certain procedures there, and section 8 provides for judicial review and where the courts come in.

I have had in mind the possibility of considering an amendment in this bill, and I just want to throw it out for the record and then get your judgment on the offering of an amendment which would permit any State, by legislative action taken within 90 days or so many months—so much time after the passage of this act, giving time for the States to act by legislative action before the impact of this bill becomes law, give them all full notice that by legislative action taken within a period of time—they may pass the necessary legislation to provide that sections 7 and 8, punitive and legislative sanctions section, of this act will not be applicable within that jurisdiction.

What troubles me is there may be a question of where the Federal Government should say to any given jurisdiction in the United States, any given sovereign State, "Irrespective of your own feelings with

regard to imposing legal sanctions, nevertheless, we, the Federal Government, are going to impose those things and we are going to impose them by Federal law which will probably have to be enforced by Federal sanctions."

There is a very fundamental issue here, and I am just wondering whether in this stage of an evolution of this kind of legislation it wouldn't be wise and whether it wouldn't be the right approach to say, "Here is our Federal policy. Here is our plan for mediation and conciliation. Here is our plan that we expect to see applied Nation-wide." But we are not going to say to a State, "If you are not prepared to enforce that by legal sanctions, we are going to put the arm of the Federal Government in your State to compel you to enforce it." That troubles me a lot with regard to this legislation.

Senator Ives. I know you spoke to me about it, Senator Smith, and I haven't yet reached the conclusion that you are pointing to. I don't think you have completely.

Senator Smith. Not completely. I am exploring the possibilities.

Senator Ives. I am inclined to think that we had better go a little slow in arriving at that conclusion. It certainly ought to be explored a great deal before we come to it.

Senator Smith. I think we probably could get support for the legislation as an over-all principle as a national policy as an approach to trying to develop friendly human relations in employment situations by mediation and conciliation practically all through this country provided the attempt isn't made by Federal law to compel some State to put the legal screws on people who may feel reluctant about accepting that kind of legislation in their jurisdiction. That is the only reason I raise the question.

Senator Ives. In other words, I gather from what you say that you would not have the statute applicable in those States that didn't want it. Is that what you mean?

Senator Smith. No; I would exempt sections 7 and 8 from applicability in those States which by affirmative legislative acts, duly considered by their own legislature, say "We feel in our jurisdiction these legal sanctions should not be applied in our State until we have tried the voluntary sanctions of mediation," but make the policy applicable all over the United States. That is the theory.

Senator Ives. Of course, the fact would be that the statute wouldn't be applicable in those particular States because unless you do have the sanctions that are provided in it, the chances of any attention being paid to it are rather remote.

Senator Smith. Well, I am not sure that I am satisfied we have explored that possibility far enough.

Senator Ives. I said that I think that that is something where an opinion or a conclusion shouldn't be reached hurriedly. I think that is open to exploration.

Senator Smith. I will be very specific. I am very sympathetic with the problems that are presented by the Senator from Louisiana, the States in the South, where they have a difficult problem there and where it seems to me we might be inviting real unnecessary difficulty in applying a principle that I am sure even there it would be agreed to, that we shouldn't have discrimination in economic opportunity, but where an attempt to put the hand of the Federal law to enforce the

thing might bring about a condition that would be most undesirable and not necessary until we have at least tried the other program, that of permitting the States to work out their own salvation so far as legal sanctions are concerned.

Senator Ives. Of course, the proposition that you raise has one obvious advantage. It means that even those States might by negative action decline to go along on it. There probably would be a great many more States that would adopt this than would otherwise adopt it by independent State action, such as has been done by New Jersey, New York, Massachusetts, and some of the others. In other words, the procedure you indicate would expedite the general acceptance of this whole plan. I can see that, but I haven't yet reached the conclusion myself that that is the way to go at it. I can see the case you are making all right.

Senator SMITH. I want to raise the matter for the record, because I propose to ask other witnesses appearing who are from the New Jersey Commission and get their judgment as to whether we wouldn't be justified in saying to those States who are hesitant about coming along, "If you recognize and support us on the principle, we will leave it to you to determine by your own legislative action whether you are prepared to put Federal legal sanctions on its enforcement in your State."

Senator Ives. I think very definitely that angle to the thing ought to be explored very thoroughly. There are possibilities there, I grant.

Senator ELLENDER. Well, Senator Smith, do I understand if the proposal made by you were put into effect, that it would take away from the law the compulsory feature?

Senator SMITH. Sections 7 and 8—

Senator ELLENDER. I understand.

Senator SMITH. And paragraphs (a) and (b) of 7, which have nothing to do with sanctions but have to do with the setting up of the commissions. I think those should be left in.

Senator ELLENDER. Then it would leave the Federal statute so that the State could take a negative attitude on the statute books insofar as that State is concerned only to the extent that the problems could be solved on a voluntary basis.

Senator SMITH. Yes.

Senator Ives. That appeals to you, Senator, doesn't it?

Senator ELLENDER. More so than compulsion. I would say much more so than compulsion, but the matter is just a question, in my humble opinion, of education.

Senator Ives. It is fundamentally a question of education. That is what I have tried to emphasize and what I have said.

Senator SMITH. My amendment would leave the educational and conciliation features in the picture.

Senator ELLENDER. I understand that, and to my way of thinking, conditions are improving all over the country. Take the South, for instance. I was a legislator back in 1924. I was a member of the convention that drafted our present constitution. At that time, we had but a handful of colored high schools in our State. Today, we have quite a few. There are colored colleges all over, and if the South is given a chance, it is going to continue to progress along this line, but it won't do it by compulsion, I am saying that right now.

Senator SMITH. That is the point, Senator, of my suggestion. If the South would accept the spirit of this bill and we'll say it is for you to work out your own salvation, that we are not going to put the arm of Federal enforcement on this, I think you can make progress. I doubt very much, frankly, in thinking this through, that you can make progress by compelling a situation that I don't think can be compelled by the arm of the law. That is what troubles me, Senator.

Senator ELLENDER. Well, it troubles me also, and the people who are going to suffer by it are those you are trying to help, because down South, as you know, we have about 75 to 78 percent of the Nation's colored people and we are striving to help them in our own way.

Senator SMITH. I want to try to approach this problem in these racial relationships, especially in the southern part of the country, through the medium of education rather than through the medium of Federal compulsion. That is the purpose of my suggestion. I appreciate that the Senator from New York has had so much experience in this field, but this is a subject that should be so thoroughly explored.

Senator IVES. I don't think there are any aspects of it that shouldn't be thoroughly explored. I think we ought to cover every corner of it.

Senator ELLENDER. That is the reason why, Senator Ives, I have suggested to this committee that we delve into the cases of discrimination, to see the extent to which there is discrimination. All we have heard here is the testimony of people, and most of it is hearsay, but we haven't had any actual cases presented on the problem even during the hearings of last year on the Chavez bill.

Senator IVES. Well, I think, Senator, when you have the heads of these several commissions on discrimination before the committee, that questions of that kind can be satisfactorily answered. I know there are cases. There have been hundreds of them in New York State.

Senator ELLENDER. I don't doubt that, but the complaints are highly exaggerated.

Senator IVES. I think you, as well as I, would like to get their slant on this thing and find out what they were and how they were handled. That is what we want to know, but I don't think it is necessary to go into every State in the Union and ascertain that.

Senator ELLENDER. Oh, no.

Senator IVES. I think you can use New York State as the guinea pig. Heaven knows, we are used for a lot of things. We might as well be used for something once in a while that is meritorious [laughter], and I think New York can easily be the guinea pig.

Senator DONNELL. Senator Ives, in your statement, you say, "By the terms of this bill, the penalties are moderate but sufficiently stiff to insure their receiving attention by those whom they would affect." Now, in this connection, I would like to call attention to the fact, for the record, that section 7, to which Senator Smith has referred, gives the commission which is to be created by the bill, if it be enacted, the power to issue an order requiring an individual or employer to cease and desist from the unlawful employment practice. In the second place, in section 8, to which Senator Smith has likewise referred, the commission has the power to petition any circuit court

of appeals in the United States and, in some cases, the district courts of the United States, for the enforcement of the order.

Now I take it, Senator Ives, that the thought behind that last-mentioned provision is that if the court has the power to issue an order enforcing the order of the Commission that for violation of such an order issued by the court, contempt proceedings would lie. That is correct; is it not?

Senator Ives. That is right. You would also find that section 14, I think, would probably have to come out, if we were to do what Senator Smith contemplates.

Senator DONNELL. That is on forcibly resisting the Commission or its representatives, but I am talking about the provisions of 7 and 8, to which he refers. In other words, the procedure would be for the Commission to determine whether or not there is a violation of the act. It would thereupon issue, if it found there was such a violation, an order to cease and desist. If that order were not complied with, the remedy would be for the Commission itself to petition the court which could enforce the order, if necessary, by contempt proceedings. This would give the court, I take it, the power to assess the penalties properly assessable for contempt of court. Is that correct?

Senator Ives. Yes; you would do it that way, but I don't think you would impose the two penalties. If that isn't clear here, it should be made clear. It was made clear in the New York statute and I thought it was made clear here.

Senator DONNELL. Just a minute, Senator, if you please. I had not raised the point of the double penalty at this point. I want to be perfectly clear as to the purpose of section 8, which gives the court the right to issue its decree for the enforcement of the order of the Commission. Now for a violation of the action of the court, I take it that this bill contemplates that contempt proceedings would lie. Is that correct?

Senator Ives. Unless it is straightened out that there shouldn't be any double violation. I don't remember whether the New York statute had that in there or not or whether or not this would be exclusive.

Senator DONNELL. I didn't ask whether it is exclusive. The point I am asking is that section 8 does contemplate contempt proceedings for violation of the act.

Senator Ives. I think that such could be instituted under it.

Senator DONNELL. Then, as you say, there is further provision under section 14, reading as follows:

Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this act, or because of such performance, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 1 year, or by both.

Senator Ives. That is correct.

Senator DONNELL. Are there any further questions?

Senator ELLENDER. Senator Ives, is the commission the sole judge of the facts in the case?

Senator Ives. Well, it is up to the time it decides whether there is a violation or not and issues its cease and desist order, and then it has the court procedure.

Senator ELLENDER. Well, that is to enforce its order.

Senator Ives. Yes.

Senator ELLENDER. But it is the final arbiter of the facts.

Senator IVES. Yes.

Senator ELLENDER. Senator, during your investigation in New York, would you be able to tell the committee against which class or race of people there was the most discrimination?

Senator IVES. No; I don't think I could because no record was ever kept on it. I don't know. For instance, in the city of Rochester, there was more criticism raised, I think, from Italian sources than from any other quarter. It depended on the location in the State. Sometimes it was the Negroes, sometimes the Jewish.

Senator ELLENDER. Who was it in New York City?

Senator IVES. I don't know. No record was ever kept on it. It depended on the area affected.

Senator DONNELL. Are there any further questions of Senator IVES? If not, we thank you, Senator IVES, for your testimony, and we will proceed to take the testimony of Senator Chavez.

Senator IVES. I wish to say, sir, before I depart from you, that any legal interpretation I may have placed on this statute or this bill is subject to further interpretation and possible revision by Mr. Tuttle, who understands it so thoroughly in a way in which I never will, not being an attorney.

(The following brief was submitted by Senator IVES:)

*** STATEMENT BY UNITED STATES SENATOR IRVING M. IVES ON SENATE BILL 984 BEFORE THE SUBCOMMITTEE OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE WHICH HAS BEEN NAMED TO CONSIDER THIS LEGISLATION—JUNE 11, 1947**

Over the years legislation aimed to eliminate discrimination in employment because of race, religion, color, national origin, or ancestry seems to have fallen largely into three main categories:

First. There is the punitive type of legislation which by heavy fine and imprisonment, would seek to gain the objective that is sought.

Second. There is the educational type of legislation which without penalty, and through conference, conciliation, persuasion, and an over-all educational approach seeks to produce an attitude and condition which in themselves will cause the elimination of discrimination.

Third. There is the type of legislation which combines in moderation both of the foregoing approaches. In this third category penalties are at a minimum and emphasis is placed largely on the voluntary processes of mediation, conciliation, conference, persuasion, and the general enlistment of representative public-spirited citizens in the local communities, in an organized effort through so-called advisory or conciliation councils, to engage in a broad informal educational program for the purpose of making not only the letter but the spirit of the law accepted and observed.

Senate bill 984, which, if enacted, would become the National Act Against Discrimination in Employment, belongs in the third category I have just indicated. By the terms of this bill the penalties are moderate but sufficiently stiff to insure their receiving attention by those whom they would affect. At the same time the possibilities for obtaining compliance through action by voluntary processes are almost without limit.

In fact, mediation, conciliation, conference, and persuasion are compulsory in the first instance. This requirement, coupled with the broad intensive program of education which the bill contemplates, should make it wholly effective—without the exercise of its penalty provisions.

It is not my purpose at this time to give a résumé of the contents of this bill. This will be handled by others who will appear at these hearings. There are connected with it, however, several important matters which I would emphasize.

In the first place there is no longer ground for doubt that legislation of this kind can be made to function effectively, fairly, and satisfactorily for all concerned. Right now in the States of New York, Massachusetts, and New Jersey statutes of this same nature are in effect and are operating satisfactorily.

Actually Senate bill 981 is patterned after the New York statute. In effect, it is the New York plan applied to the Federal level.

In fact the one who largely drafted the New York State law against discrimination is the one who has largely drafted the bill we are now considering. He is one of New York's most distinguished citizens, Hon. Charles H. Tuttle, of New York City, who for many years has been active in combating discrimination and who will appear on this morning's program.

The New York law has been in operation for almost 2 years, and I am informed that during this period of time not one penalty has been imposed and not even one case has gone to court. The record of New York is indeed impressive and will be fully covered by the present chairman and the former chairman of the New York State Commission Against Discrimination, who are to appear at a later date during these present hearings. Suffice it to state, however, that the experience of New York State has already demonstrated that this kind of law can be made to work as it is intended to work.

There are, no doubt, some who may question the possibility of creating a commission, as provided in this bill, whose members will administer the statute fairly and properly. I can understand this kind of doubt in the mind of any person. As a matter of fact, it was the biggest obstacle which had to be overcome at the time the New York bill was being considered by the legislature of that State. However, again the experience of New York has proved beyond question that it is possible to choose a commission whose members can and will meet the requirements I have cited.

The New York commission consists of five members who come from the white and Negro races, the Catholic, Jewish, and Protestant religions, management and labor, and both sexes. They were selected moreover, without regard for their affiliation in any political party. Although I am not sure about the party affiliation of every one of them, I do know that two of them are Democrats and that all of them were chosen by a Republican Governor with the advice and consent of a Republican State senate. Every one of them has been doing an outstanding job in the most delicate area in the field of human relations. If this high quality of commission can be selected in New York State, surely a commission of equally high caliber can be obtained in the Nation.

I realize that it is not necessary for me to remind the members of this committee of the basic justice inherent in this bill. Two of you, Senator Smith and Senator Murray, are with me cosponsors of the bill. All of you are men of good will.

No man should be deprived of the right to earn a living because of his race, religion, color, national origin or ancestry. Discrimination in employment is contrary to all that is fundamental in our American creed. That is what this bill deals with—the right to work, regardless of one's race, religion, color, national origin, or ancestry.

This right, as all of us know, is fundamental in religion. It is a part of the Sermon on the Mount, and of the two great commandments, and of the Golden Rule. The Declaration of Independence gave it new life, the Constitution of the United States presumably guarantees it. And yet our failure as a Nation to live up to it constitutes the gravest anomaly in our American tradition.

We may differ among ourselves on how to meet and overcome this so-called American dilemma, but at the same time we must recognize that it has to be met and that it has to be overcome. I firmly believe that the bill we are now considering offers the soundest and most effective plan thus far devised, by which to solve the problem of discrimination in employment.

STATEMENT OF HON. DENNIS CHAVEZ, A UNITED STATES SENATOR FROM NEW MEXICO

Senator DONNELL. Senator Chavez, will you be kind enough to proceed with your statement to the committee on S. 984, of which, I take it, you were one of the cosponsors?

Senator CHAVEZ. Mr. Chairman and gentlemen of the committee, what I say this morning comes from the heart. I am for the legislation proposed because I believe in my Government. I am for the legislation proposed because I believe it fits our Government, and I am for it because I think it is a necessary step that the National Legislature should take.

S. 984, a bill to establish a National Commission Against Discrimination in Employment, is in the great tradition of the Declaration of Independence, our Constitution, and the Bill of Rights. It is in harmony with the philosophy that went into the making of our Government.

It is in harmony with the constitutional evolution of that Government to meet the developing needs and desires of a people whose deepest instincts are for freedom, equality, and justice under law and whose genius has carried the industrial revolution to a point where, if we can bring our human engineering skill abreast of our technological skill, we can enjoy a degree of prosperity and freedom unequaled in the history of the world.

The instinct for freedom and justice under law for the individual man was demonstrated at the very beginning of our history. Opposition to the Constitution in its original form of a preamble and seven articles was intense. In order to insure ratification, an agreement was made to submit immediately after adoption 10 safeguarding amendments known as the Bill of Rights, all aimed at protecting rights of the individual and the States. The bill before you today is, in my opinion, a logical extension and implementation of the rights of the individual citizen safeguarded in the Bill of Rights.

In those days, 156 years ago, the right to life, liberty, and the pursuit of happiness that had been proclaimed in the Declaration of Independence and guaranteed to a degree for some people in the original Constitution and the Bill of Rights could be enjoyed by free men either in the expanding economy of the Thirteen Original States or by going into the frontier as pioneers.

Today, with the Nation settled and the vast majority of our people employed as wage and salary earners, our frontiers are within our industrialized economy, our society, and our Government. Enjoyment of the right to life, liberty, and the pursuit of happiness today requires legislation such as S. 984 to assure equal job opportunity, equal opportunity to the means of life itself, without discrimination because of race, religion, color, national origin, or ancestry. This new frontier, this wilderness of discrimination in employment, must be opened up and cleared. We cannot longer postpone this job of modern pioneering.

Precedent and sanction for this step exist in the history of actions by Congress and State legislatures to give contemporary meaning to the philosophy of freedom, equality, and justice that inspired the creation of this Nation.

Property rights as a qualification for full citizenship and holding office were reduced and abolished.

Chattel slavery was abolished and the Congress moved to give meaning and force to its abolition by the fourteenth and fifteenth amendments which prohibited abridgment of the privileges or immunities of citizens and the depriving of any person of life, liberty, or property without due process of law or the denial to any person of the equal protection of the laws.

Article 15 declared that the right to vote should not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude and the Congress was given power to enforce this amendment by appropriate legislation. That is the

Constitution. I deem it a matter of national shame that even today it is not the universal law and fact throughout our country.

The development of our industrial system and the growth of incorporated ownership of industry, business, and finance led to the adoption of article 16, authorizing the Congress to lay and collect taxes on incomes from whatever sources derived.

As the acts of the Congress became more clearly related to the daily lives of the people, the seventeenth amendment transferred the election of Senators from the State legislatures to the people and the Senate became a democratic body whose Members are elected by direct popular vote.

Suffrage was widened by the nineteenth amendment, giving the vote to women.

Government was again brought closer to the people by the twentieth amendment, abolishing lame-duck Congresses and setting the terms of the President and the Vice President ahead to within 60 days of their election.

In addition to this development of our Constitution, our Federal laws have been developed to keep pace with the march of the industrial revolution that was beginning when the Constitution was adopted. I will not attempt a catalog or summary of this body of law further than to mention a few landmarks that may be used in sighting our course with regard to the bill and the problem before us in these hearings.

There was Thomas Jefferson's successful fight to break the Virginia laws of primogeniture which released land for the people.

There was the successful fight to break the private financial monopoly of the Bank of the United States that imposed a credit servitude upon the Nation's economy and every individual businessman, farmer, and wage earner.

There was the long struggle to open up the western lands for homesteads, a struggle in which labor and farmers played leading roles.

Labor led in the long hard struggle to establish a free public school system so that democracy might be understood, valued, defended, and extended by an educated electorate using intelligently the responsibility of the right to vote.

In 1890 the Sherman Antitrust Act was passed to protect independent business, free enterprise, and the welfare of labor and the public against the pyramiding power of the trusts. But it was not until the days of President Theodore Roosevelt that serious enforcement was attempted and the growth of ruthless, impersonal monopoly retarded.

Through the years wage earners had sought to band together the more effectively to negotiate collective-bargaining agreements with employers whose operations grew until their decisions on wages, hours, and working conditions affected the safety, health, purchasing power, and very lives of scores of thousands of employees and their families. Union strength waxed and waned and grew strong again in response to the developing industrial and financial system. The Sherman Antitrust Act was turned against labor to weaken and break up unions. As a result, the Congress adopted the Clayton Act, stating as national policy that labor was not a commodity or article of commerce.

The Federal Reserve Act was passed to mitigate the widening swings

of the credit pendulum from boom to panics that periodically ruined businessmen and farmers and blighted the lives of unemployed wage earners and their families.

In recent years, the Congress recognized the fact that the industrial revolution had made employment or unemployment, security or insecurity in old-age matters, beyond the control and decision of the individual wage earner or any State. The Congress adopted the Social Security Act and accepted as a national responsibility the duty of insuring the minimum means of life for those unemployed in the prime of life or destitute in their old age through no fault of their own.

Simultaneously, Congress faced up to the long-established fact that labor must have the right to organize and bargain collectively. For 20 years investigating commissions and committees had reached the uniform conclusion that industrial disputes and warfare could be reduced and eliminated if unions were able to organize and bargain collectively and effectively with employers whose economic power increased as the technology of the industrial revolution developed at an accelerating speed.

Supplementing the Wagner Labor Relations Act, the Fair Labor Standards Act was passed. It outlawed sweatshop wages and hours and limited and regulated child labor.

All the measures I have mentioned were adopted in response to the urgent need of millions of individual human beings being enmeshed in the machinery of our expanding industrial civilization. They were essential to give meaning, or even colorable plausibility, to the constitutional guaranty in the fourteenth amendment that no citizen shall be deprived of life, liberty, or property without due process of law. For the most part these wage earners had little or no property but they had life and they wanted liberty, including the right to earn a living, to organize and bargain collectively, to keep their families and themselves alive in periods of depression and in old age.

Survival and military victory in World War II seemed to require a general moratorium on progressive legislation and a let-down of the fight against monopoly. Big corporations were made bigger by war contracts when speed and volume of production were imperative. Later, an effort to sustain small business through the war was attempted.

But, at the very beginning of the war, one historic forward step was made. Using his war powers, the President set up the Fair Employment Practice Committee, charged with seeing to it that discrimination in employment related to the war-production effort was reduced and eliminated. Every available man and woman was to be allowed to work at his or her best and most-needed skill.

Limited though it was in power and effectiveness, the FEPC greatly increased production, contributed to national unity and morale, and was of immense value in the war of ideas that was waged as part of the shooting war. To the degree FEPC was effective, it contradicted totalitarian charges that our democracy was a sham and a fake so far as minority groups were concerned.

The war of ideas between democracy and totalitarianism is not over. It continues and threatens to increase in intensity, perhaps for years to come. Demonstration that we preach and practice fair employ-

ment, that we have and administer effectively laws against discrimination in employment, is more needed now than during the recent shooting war. Later I shall have more to say of this as it affects our standing and relations with our Latin-American neighbors south of the border.

Since the end of the war, we have passed one major piece of legislation addressed to the problem of learning to live with our great productive machine that can turn out more than an abundance for all our people. I refer to the Employment Act of 1946.

But the wartime FEPC was allowed to die a year ago. I feel, Mr. Chairman, that in letting it die the Seventy-ninth Congress broke faith with 14,000,000 Negroes, 22,000,000 Catholics, 4,000,000 Jews, 3,000,000 Americans of Hispanic or Mexican origin, 400,000 American Indians, 11,000,000 immigrants, and 23,000,000 children of immigrants, or—allowing for duplication of classification—between 20 and 30 millions of our people. We broke faith with all Americans who have come to realize that discrimination in employment cuts both ways and every way, that it is a crime not alone against our tradition of freedom, equality, and justice, but against our economy and our hope of prosperity and peace within this Nation and among nations.

I do not intend to labor the economic evils of discrimination in employment. I will simply offer for the consideration of the committee the wise words of Eric Johnston when he was president of the Chamber of Commerce of the United States:

The withholding of jobs and business opportunities from some people does not make more jobs and business opportunities for others. Such a policy merely tends to drag down the whole economic level. You can't sell an electric refrigerator to a family that can't afford electricity. Perpetuating poverty for some merely guarantees stagnation for all.

True economic progress demands that the whole Nation move forward at the same time. It demands that all artificial barriers erected by ignorance and intolerance be removed. To put it in the simplest terms, we are all in business together. Intolerance is a species of boycott and any business or job boycott is a cancer in the economic body of the Nation.

I repeat, intolerance is destructive; prejudice produces no wealth; discrimination is a fool's economy.

Or, in the constitutional language of the bill before us, as stated in section 2 (a)—

The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry . . . deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

These findings are, to my mind, incontrovertible. They can be assailed only by those who are prepared to sacrifice national strength, welfare, and security to the continued exercise of capricious, irresponsible, antidemocratic, and essentially un-American discrimination in employment. These findings must be supported by all who are willing to face the facts of our industrial economy. Economic justice for the individual is good business for us all.

Enactment of this bill is the need of the moment. It will strengthen us as a people, as a nation, and in our standing among the peoples and the nations of the world.

Here at home, the millions of members of minority groups have been very patient. Denied economic and social justice before the war, they

nevertheless performed heroically on every battle front of the war. They gave their lives to perform feats of heroism and endurance. Those who came home brought the same faith in the ultimate justice of our democracy that sustained them on Bataan, in the Japanese prison camps, in Burma, during the north African campaign, the heartbreaking Italian campaign, and the liberation of western Europe. The evidence shows—and I presume it will be laid before the committee—that men of minority groups who fought to save this Nation and freedom in the world have come home to find that they are again barred from employment, from just promotion in employment and that, in short, three of the “four freedoms,” freedom of religion, freedom from want, and freedom from fear, are still “pie in the sky” as far they are concerned.

Let me quote a recent statement by the Reverend Father John J. Birch, of San Antonio, Tex., executive secretary of the Bishops' Committee for the Spanish Speaking:

There is no doubt in my mind but that discrimination regarding the Spanish-speaking people in this locality has increased since the war.

But this is not a matter simply of discrimination against the Spanish speaking or any other particular minority group. The denial of economic justice in employment, of the right to the means of life, exists not only in the southern and southwestern parts of our country. It contaminates industrial relations everywhere in the South, the North, the Middle West, the Southwest, and on the Pacific coast. I have heard it said that there are some jobs for which no native-born white Protestant need apply, and that this is true not only in some parts of the North but in the South as well. Certainly a good many speakers and pamphlet writers have cried out against what they consider economic discrimination against native-white Protestants. And so I say there is no section of the country and no section of our population that does not have a just claim to the protection which will be given by enactment of this bill against discrimination in employment.

Abrond, our enactment of this bill will make a good neighbor a better neighbor. Every day we fail to act to outlaw the practice of discrimination in employment here at home our role as the world's champion of democracy and freedom is subject to discount. That discount is as heavy as the extent and cruelty of the discrimination. As we reduce it, not by pious resolution alone, but by action such as provided for in this bill, we will strengthen the force and leadership of our form of government in the minds of other peoples, nations, races, colors, and religious.

I speak with particular knowledge of, and sympathy for, the feelings and attitude of the 130,000,000 people of the Latin-American countries south of the border. They are different in race and culture. Like the Spanish-speaking people of our Southwest, their history in the New World goes back to the earliest recorded times and, through the Indians, to civilizations and cultures probably as old as any on this earth. They are a proud people, capable of warm friendship and, when discriminated against, of deep distrust and aloofness. For many years now we have been breaking down old distrust and suspicion by the good-neighbor policy. But, always, there has been the knowledge that the Spanish-speaking people, particularly along the border and in work camps all over the Nation, have been discriminated against in jobs, in pay and in working conditions.

The constitutions and laws of the Latin-American nations are, with a few exceptions, those of a democracy. In the contravention of democratic processes in some instances, we are not wholly blameless. On occasions some of our great banks and corporations have held back democracy in the political and economic life of some Latin-American countries. I know that the people of the Latin-American countries have a deep feeling, a burning passion for the growth and extension of democracy. They look to us, some with fear, some with hope. Our pattern of behavior, good or bad, tends to become the pattern for this hemisphere. If it is bad, if for example, discrimination in employment is allowed to continue and become worse, distrust of our good neighborliness will increase. Within Latin-America, democracy will be set back and totalitarian movements will win new followers.

That need not happen. By enacting this bill and providing for its intelligent and effective administration, we can show the people of Latin America, themselves composed of many races and cultures, that a highly industrialized conglomeration of peoples of different origins can get along together as freemen.

The noble words of the Act of Chapultepec and the United Nations Charter will have new life and meaning.

As with Latin America, so with the other nations of the world. At this moment, when all peoples are in turbulent change and this Nation is the only country committed to democracy and capitalistic free enterprise, it must be proved to all our people and to watching millions in other countries that our system does work better than other systems.

No amount of oratory, no volume of propaganda can conceal the facts. Either we do have economic justice in employment or we do not.

The fact, whatever it may be, will be known throughout the world. It will travel by air waves, by word of mouth; it can penetrate any iron curtain ever made. I have faith in the power of truth. I want the truth to be that in peace we do what in war we pledged ourselves to do.

I understand that legal analysis of the bill before you will be made by other witnesses. As a sponsor of an earlier bill for fair employment, S. 101 of the Seventy-ninth Congress, and as a cosponsor of this bill, S. 984, I wish to make a brief statement on the two bills' differences and similarities. However, I will hand it in for the committee's file.

Senator ELLENDER. In that connection, Senator, will you answer a couple of questions? As you have just indicated, you sponsored S. 101 in the Seventy-ninth Congress and you cosponsored the present bill. Now as I recall, your bill S. 101 applied to establishments wherein the number of employees were six or more and your board consisted of five members rather than seven, as is in the case of this bill.

Senator CHAVEZ. That is right.

Senator ELLENDER. Are there any other essential differences between the two bills?

Senator CHAVEZ. Yes; many essential differences. I am afraid that Senate bill 101 applied to more cases than would be covered in this particular bill.

Senator ELLENDER. What do you mean by that?

Senator CHAVEZ. This confines itself strictly to employment, to discrimination in employment. I am afraid that my bill possibly might have had other features within it that would cover more than given employment.

Senator SMITH. Do you agree, then, Senator, that it might be better to limit the bill to discrimination in employment as this bill does?

Senator CHAVEZ. Well, as a matter of fact, I am sorry that I didn't think of this very idea the last time, because that is the only thing that I was trying to reach, that is, nothing but employment, the right to work.

Senator ELLENDER. Well, except for that difference, then, that is, in the applicability of your bill, if you had made your bill apply to employment as this does, there would have been no difference except as to the two points that I have just mentioned.

Senator CHAVEZ. No. This goes a little further. This has educational features and it also has conciliation and persuasiveness, and so forth.

Senator ELLENDER. Well, you had that, too, in your bill, as I remember.

Senator CHAVEZ. No; not like this bill.

Senator ELLENDER. You mean to say that this bill goes further in that direction than your bill?

Senator CHAVEZ. I think it does.

Senator DONNELL. Senator, right at this point, do you construe this bill, S. 984, as giving to the courts the power to enforce by contempt proceedings an order made by the commission which the court in turn sustains?

Senator CHAVEZ. I consider that that is the third and final step as to the provisions of the bill to make it effective.

Senator DONNELL. You are a lawyer, Senator, in addition to being a United States Senator, aren't you?

Senator CHAVEZ. That is right.

Senator DONNELL. And it is your construction of this bill, S. 984, that it does authorize a court to issue a decree to enforce an order, and for violation of that decree, contempt proceedings can be issued and sustained. That is your construction of the bill, isn't it?

Senator CHAVEZ. Yes; that is right, but is the last step to be taken. The commission makes an order that might be accepted, but if it is not accepted and then they go to court, the court will have the right, as you have stated, to enforce that order.

Senator DONNELL. By contempt proceedings?

Senator CHAVEZ. Well, in my opinion, that would be the proceedings, contempt proceedings.

Senator ELLENDER. In that respect, your bill does not differ from this bill, that is, in enforcement proceedings. S. 101 followed the same pattern as does S. 984.

Senator CHAVEZ. That is right. I don't believe any legislation is worth the paper it is written on unless it has enforcement powers.

Senator DONNELL. Are there any further questions of Senator Chavez?

Senator SMITH. Senator, I would just like to ask this question. In our attempts to evolve a Nation-wide policy to eliminate discrimination in employment, would you comment on the suggestion I made to Senator Ives, possibly amending this bill to permit a State in a given period of time after the enactment of this legislation to eliminate the legal sanctions?

Senator CHAVEZ. Senator, I understand what you had in mind by your suggestion, but I try to make myself believe in my fellow hu-

men. However, as I get older and older, I come to the conclusion that the only law that is enforced is that one which has penalties. The same with education; I like to make myself believe that men become broadened by training and by learning, but I have seen so many injustices, even by educated people. They are worse than the ignorant men who discriminate. An educated man who discriminates is dangerous, more so than the ignorant man that does it out of ignorance. I think your suggestion is grand, but I do not believe that human beings have reached that point of civilization where they could do those things.

Senator SMITH. Wouldn't you agree probably that in the process of evolving this whole policy, which is a very broad and new conception of the Federal Government to take notice of, that it might be wise to at least say to a State that it thinks the State can put the principle into effect without the Federal law coming into that State? Let the States try it at least before we say that you have failed and therefore we have got to put the Federal sanction in it.

Senator CHAVEZ. That might be the approach, and I am glad the committee is thinking along those lines because it might accelerate action by the States to carry out the general policy that we are trying to do.

Senator SMITH. It would still leave us with the trial-and-error method of dealing with these things. Senator Ives said, although they have had the sanction in New York, they have never had to use it. Thank God for that. I never want to see the time when you have to go to court to create human relationships. I am afraid of it. But if we can say to a State, "All right, if you think you can deal with the thing on the educational process, if your representatives can join with us in passing the policy of this bill, we will give you the opportunity if you want to act by statute legislation. At present we don't want these legal sanctions imposed which will bring the arm of the Federal Government to your State to enforce these provisions."

Senator CHAVEZ. Senator, I would prefer not to have compulsion on anything, but I had hoped that all of the States would take action. And your suggestions, if included in the law, might be the accelerating motive of the States taking action.

Senator SMITH. Well, that is in my mind, too; but by passing this Federal law we are putting in sanctions covering all the States of the Union. By my amendment, however, we would simply say to a State, "If you feel that is going too fast for your jurisdiction, by legislative action you can eliminate provisions 7 and 8 which put legal sanctions in the bill." I believe our thinking on this subject will accelerate trying to get the spirit into this bill and meet the rising opposition when you try to bring in the arm of the law. It is fundamental with our institutions that we don't try to force our over-all decisions on areas that feel they can take care of their own.

Senator CHAVEZ. Except this, Senator, that if a piece of legislation is enacted—if you enact legislation into law—I am not a believer of enforcing it in one section of the country and not in the others. The law applies to all of us.

Senator SMITH. I recognize the difficulty of that thought, but we are going pretty far here in an over-all legislative bill.

Senator CHAVEZ. I am speaking of general legislation. Of course, I would like to see the law applied to all. I think that is what was intended and that is the way it should be.

Senator DONNELL. Do you feel that way about S. 984?

Senator CHAVEZ. Yes; but that is only an opinion.

Senator DONNELL. Do you think our committee should give consideration to the suggestion made by Senator Smith?

Senator CHAVEZ. Yes. I think it is a good suggestion. It is worth the time and effort in serious consideration of this matter to look into that most carefully, and that might be the way. Legislation of this type—or any other type, for that matter—takes years and years, and States make it once in a while. I think it is a good suggestion and I think the committee should explore it extensively.

May I proceed?

Senator DONNELL. Yes.

Senator CHAVEZ. First, it should be recognized that S. 984 is a new bill. I do not refer to the difference in words between "fair employment" and "against discrimination in employment." The purpose is the same as in earlier bills. The method is different.

S. 984 is new because the first emphasis of administration has been changed. Instead of putting first emphasis on formal charges, hearings, orders, and application to the courts for enforcement, S. 984 provides for a sequence of information, education, mediation, and conciliation. All this is antecedent to and clearly separated from the enforcement procedure.

Yet it should be recognized that this entire sequence is given weight and meaning by the fact that S. 984, like the earlier S. 101, carries adequate provision for enforcement in cases where discrimination will not yield to the voluntary processes first provided.

First you provide for voluntary processes, education, mediation, conciliation. If they don't prevail, then you have the enforcement features, the final one being the one that you called to my attention—that the court can take action through injunction proceedings.

Senator DONNELL. And enforceable by contempt proceedings.

Senator CHAVEZ. That is right.

Senator DONNELL. That is your opinion.

Senator CHAVEZ. Yes. Without the ultimate power of recourse to formal hearings and the courts, the entire voluntary procedure would, in my judgment, have no meaning, and money spent in the effort would be wasted. The findings and declarations of the Congress with respect to discrimination in employment and evil effects therefrom would be without effect. Congress would be in the ridiculous position of recognizing injustice and pledging ourselves to do less than we can to insure justice.

At this point, I offer for the record a summary of nine principal differences between S. 984 and the Senate bill S. 101 and H. R. 2232, reported out of committee during the Seventy-ninth Congress.

As I stated to the committee, I have a document here showing the principal differences as between Senate bill 984 and Senate bill 101.

Senator DONNELL. Do you desire to have that incorporated in the record?

Senator CHAVEZ. Yes; and I will make a copy available to the members of the subcommittee.

Senator DONNELL. Thank you. It will be incorporated as a part of the record.

(The statement submitted by Senator Chavez is as follows:)

PRINCIPAL DIFFERENCES BETWEEN S. 984 (80TH CONG.) AND S. 101 AND H. R. 2232 (79TH CONG.)

1. S. 984 declares the act to be enacted as a step in the fulfillment of treaty obligations, undertaken by ratification of the United Nations Charter, to promote "universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, and religion" (sec. 2 (c)). S. 984 uses term "religion" (sec. 2 (a)) instead of "creed" as found in the earlier bills, and meets the objection made by Representative Slaughter in voting against reporting of the earlier bill by the House Rules Committee.

2. S. 984 authorizes the Commission to assist employers upon their request in enforcing the act through conciliation or other remedial action (sec. 6 (g) (5)). Earlier bills had not similar provisions.

S. 984 (sec. 6 (g) (7)) contains a new subsection, adopted from the New York State law, authorizing the Commission in its judgment to create "such local, State, or regional advisory and conciliation councils as * * * will aid in effectuating the purpose of this act." These councils may be employed by the Commission to "study the problem or specific instances of discrimination in employment because of race, religion, color, national origin or ancestry and to foster through community effort or otherwise good will, cooperation and conciliation among the groups and elements of the population, and make recommendation to the Commission for the development of policies and procedures in general and in specific instances."

The provision for these councils is in addition to, but is not a substitute for, provisions for enforcement through the courts, set forth elsewhere in the act. Experience in New York, New Jersey, and Massachusetts indicates that such councils can assist in promoting compliance with less recourse to enforcement but deriving their effectiveness from that recourse.

3. S. 984 specifically protects Federal and State veterans' preferences (sec. 12). Earlier bills had no such express provisions.

4. S. 984 requires employers and labor organizations to post notices relating to the act and provides a fine of from \$100 to \$500 for each separate offense or willful violation of this requirement (sec. 11). As a matter of practical administration, this may be the most effective new feature of the bill. Earlier bills had no such provisions.

5. Definitions of unfair employment practices have been restated in S-984:

"Sec. 5. (a) It shall be an unlawful employment practice for an employer—

"(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry.

"(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

"(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions because of such individual's race, religion, color, national origin, or ancestry."

This language of S. 984 strikes at discriminatory classification or of union membership in status, powers, or participation in union affairs affecting employment. It will, it is believed, be accepted and actively supported by nearly all of organized labor.

6. S. 984 covers employers of 50 or more individuals (sec. 3 (b)) and labor organizations having 50 or more members (sec. 3 (c)). Earlier bills covered employers of six or more individuals and labor organizations having six or more members. Experience under the wartime FEPC shows that this change will not substantially reduce the coverage. (Many small employers are in intrastate commerce and thereby exempt.)

7. S. 984 specifically exempts a State, municipality, or political subdivision thereof, all religious, charitable, fraternal, educational, or sectarian nonprofit organizations except labor organizations (sec. 4). Earlier bills had no such specific exemptions.

8. S. 984 omits the blacklist as punishment for violation of the nondiscrimination clause in Federal contracts (sec. 10). The earlier Senate bill (S. 104) provided that contracts might be withheld from violators for a period of 3 years (sec. 13 (b)) and the House bill (H. R. 2232) provided a similar penalty of 1 year (sec. 11 (b)). S. 984 empowers the President to make rules and regulations for compliance by Government contractors, enforcement to be a responsibility of the Commission (sec. 10).

As to compliance by Federal agencies themselves, S. 984 authorizes the Commission to request the President to enforce the Commission's orders with respect to such agencies (sec. 10).

9. Because many who professed support of the principle of fair employment objected strenuously to some procedures and methods of enforcement proposed in earlier bills, denouncing them as snooping, high-handed, arbitrary, and violative of the spirit and letter of due process of law, S. 984's provisions for procedure and for judicial review and enforcement will be of particular interest. A summary follows, again comparing S. 984 with the earlier Senate and House bills:

(a) S. 984 specifically provides that the Commission may act upon a sworn charge alleging discrimination in employment filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission (sec. 7 (a)). Under the earlier bills, it was not clear whether the Commission might act upon its own initiative.

(b) S. 984 requires charges to be filed within 1 year from date of alleged unlawful employment practice (sec. 7 (h)). Earlier bills had no similar limitation.

(c) S. 984 requires proceedings under the act to be held in conformity with sections 5, 6, 7, and 8 of the Administrative Procedure Act, Public Law 404, approved June 11, 1946 (sec. 7 (k)).

The advantages of uniform administrative standards are thus provided, including—

- detailed notice with due regard for convenience of parties;
- provision for settlements and adjustment by consent;
- separation of investigative or prosecutive functions from adjudicative functions;
- issuance of declaratory orders to terminate a controversy;
- rules regarding issuance of subpoenas and penalty for failure to comply therewith;
- statutory description of powers of hearings officers;
- and statutory rules regarding evidence and decisions.

(Comparable passages of the earlier Senate (sec. 10) and House (sec. 7) bills were drafted before the passage of the Administrative Procedure Act and did not include similar detailed provisions.)

(d) S. 984 makes judicial review and enforcement of the Commission's orders subject to sections 10 (a), 10 (b), 10 (c), and 10 (e), of the Administrative Procedure Act (secs. 8 (a) and 8 (h)). Under these provisions—

- the right to review is broadened and the form of legal proceedings may include actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus;

the scope of review is outlined;

- the reviewing court may compel agency action that has been "unlawfully withheld or unreasonably delayed"; and

the reviewing court may set aside agency action or conclusions found to be arbitrary or in abuse of discretion, in excess of statutory time limitations, without due observance of statutory procedure, unsupported by substantial evidence, unwarranted by the facts to the extent the facts are subject to trial de novo by the reviewing court, or contrary to constitutional rights and privileges.

It appears that the rights of the parties are fully and explicitly protected by those detailed provisions regarding procedure and judicial review and enforcement. The earlier Senate bill (secs. 10 (e), 10 (f)), and the House bill (sec. 8) provided for judicial review and enforcement of the Commission's orders in conformity with the comparable provisions of law governing orders of the National Labor Relations Board.

Will critics of the former bills now object to the explicit adoption of the methods provided by the Administrative Procedure Act, passed by the Seventy-ninth Congress with overwhelming majorities in both Houses?

Supporters of S. 984 believe every protection of the rights of the parties has been amply provided; their only fear is that, in doing so in such amplitude, justice may sometimes be delayed and as a result in effect denied the weakest and most necessitous groups and individuals among the wage-earning population. Undue delay will be best insured against by insistent public opinion and adequate appropriations for administration and enforcement.

SENATOR CHAVEZ. These differences are very substantial. They are improvements. As I stated March 27, when S. 984 was introduced by the junior Senator from New York, Mr. Ives, and seven other Members, I believe the new approach proposed in this bill is the right approach. I commend the junior Senator from New York for the sympathy, the intelligence, the statesmanship, and the industry he has shown in this matter. He has brought a broad experience of industrial relations and of legislation in his own State to bear upon this problem. I believe that his confidence in the fundamental good will of most employers, most employees, and most legislators will be justified. As now drafted, this bill's first appeal is to that good will. I believe that, with intelligent, sympathetic, and resolute administration, it can accomplish its purpose of eliminating discrimination in employment.

I am optimistic about the enactment of this bill. A majority of the Members of the Seventy-ninth Congress would have voted for such legislation. But, by parliamentary maneuver, the filibuster, and the two-thirds rule on cloture, the will of the American people and of the Congress was balked and defeated. When that happened I was not disheartened. In the Senate 48 Members voted for cloture so that a debate and vote could be had on S. 101; 36 voted "no." That was a majority for justice in employment in this Nation. I had faith that sooner or later the will of the majority would prevail.

We all know what happened. It didn't pass and it was withdrawn.

In the Eightieth Congress we who favor the passage of effective legislation against discrimination in employment have the votes to pass this bill. We who have carried the fight for fair employment are encouraged by the distinguished bipartisan sponsorship and support given S. 984, and if the committee can improve it, well, God bless you. We are even for that.

SENATOR IVES. Pardon me; the same goes for me, too. [Laughter.]

SENATOR CHAVEZ. We Democrats who favor fair employment challenge all the Members of the majority party to a competition in good works on this issue.

We have every reason to act now to make good on our wartime pledges that the four freedoms should become reality. Not the least of our reasons is the gathering storm in international affairs. We will be wise to get our ship in shape, manned by a unified and devoted crew, jealous in the possession of freedom they actually enjoy.

By enacting S. 984 we will keep faith with the dead and with the living, with those who died on Bataan, in the prison camps, and on the battle fronts of freedom and with those who came back to live under the promises we made them. S. 984 is in the great American constitutional tradition of freedom, equality of opportunity, and justice under law. The times require its enactment.

SENATOR DONNELLY. Are there any further questions of Senator Chavez? Senator, we are very much obliged to you for your presentation.

Before the next witness enters upon his testimony, there is now filed with the committee for incorporation in full in the record, if there is no objection by any member of the committee, a brief submitted by Charles H. Tuttle, with the distinct understanding that the committee desires his personal appearance, if at all possible, and hopes very much that Senator Ives may be able to cause Mr. Tuttle to be present.

(The above-mentioned brief is as follows:)

BRIEF SUBMITTED BY CHARLES H. TUTTLE IN SUPPORT OF SENATE BILL 984, ENTITLED "A BILL TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY," BEFORE THE COMMITTEE ON LABOR AND PUBLIC WELFARE, EIGHTIETH CONGRESS, FIRST SESSION

Mr. Tuttle was counsel for the New York State Temporary Commission Against Discrimination, which drew the New York law against discrimination enacted in 1945.

He has been active in advocating like legislation in the States of Massachusetts, Connecticut, and New Jersey, and is now vice chairman of the New York City council of the State Commission Against Discrimination.

In the submission of this brief, Mr. Tuttle feels especially privileged and honored to have the opportunity to appear before this congressional committee in support of this bill initiated by Senator Irving M. Ives, who was chairman of the New York State Temporary Commission Against Discrimination, who was foremost in securing the enactment of the New York law, and who by his leadership in the field of right human relations has given his name to the New York law and to this bill.

SUMMARY OF PROVISIONS OF THE BILL

This bill is a departure in approach and concept from the former FEPC bills which annually appeared in Congress without success.

In grappling with the problem of discrimination in employment, this bill shifts the initial emphasis from naked police power to conference, conciliation, and persuasion.

It provides the means for rallying the local forces of good will within our communities to study the problem of specific instances of discrimination in employment and to foster, through community effort or otherwise, cooperation among all the elements of our population, and to aid in the development of remedial policies and procedures in general and in specific instances.

It provides for cooperation with regional, State, local, and other agencies.

It provides for studies of the subject by the Commission and the making of such studies available to interested governmental and nongovernmental agencies.

It provides for furnishing to persons under the act such technical assistance as they may require or request for compliance with its policies.

It extends assistance to employers whose employees, or some of them, may refuse or threaten to refuse to cooperate with the policies of the act.

If all these preliminary approaches fail and a trial of a complaint becomes necessary, the bill provides fair procedure for a hearing before three members of the Commission who were without participation in the earlier efforts at conference, conciliation, and persuasion.

The provisions for a trial before the Commission and for judicial review of the results of such trial are carefully molded in accordance with the standard provisions of the Administrative Procedure Act and the traditional concepts of fair play.

Subpenas may be issued only by the Commission or some member thereof.

Any agent designated by the Commission to conduct any investigation or proceeding must be a resident of the Federal judicial circuit within which the alleged unlawful employment practice occurred.

UNLAWFUL EMPLOYMENT PRACTICES AS DEFINED IN THE BILL

These unlawful employment practices are four in number. They are set forth in section 5, and are, in summary:

1. For an employer to refuse to hire, or to discharge, or otherwise to discriminate in the matter of employment, because of race, religion, color, national origin, or ancestry.

2. For an employer to utilize any employment agency, training school, or labor organization which does so discriminate.

3. For a labor organization to discriminate against any individual, or to segregate or classify membership or limit employment opportunities on any such ground.

4. For an employer or labor organization to penalize anyone for opposing any such unlawful employment practice.

EXEMPTIONS

Section 4 specifically exempts any State or municipality or political subdivision thereof, or any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than labor organizations.

The definition of employer specially exempts any employer having in his employ less than 50 individuals.

As to any agency or instrumentality of the United States, or of any Territory or possession thereof, or any officer or employee thereof, the Commission is authorized to request the President to take such action as he deems appropriate to obtain compliance with its orders; and the President is empowered to establish rules and regulations for compliance by any person who contracts with any agency or instrumentality of the United States if such contract requires the employment of 50 or more individuals.

THE MODEL FOR THIS BILL.

The bill is modeled on the New York law against discrimination enacted on March 12, 1945, and commonly known as the Ives-Quinn law.

It was passed by the legislature overwhelmingly as a nonpartisan measure. It gave the State of New York primacy in the enactment of an integrated program against racial and religious discrimination.

In signing the bill, the Governor described it as a reaffirmation by the people of New York of their faith "in the simple principles of our free Republic"; and said:

"It expresses the rule that must be fundamental in any free society—that no man shall be deprived of the chance to earn his bread by reason of the circumstances of his birth."

The leadership thus taken by the State of New York in this social advance has stimulated the enactment of similar laws in the States of Massachusetts, New Jersey, and Connecticut. Like legislation is pending in some other States.

The bill was framed by a commission appointed in the previous year by the legislature and the Governor. Hon. Irving M. Ives was chairman of the commission. The commission had extended public hearings on the subject and on the commission's preliminary draft in all the principal cities of the State. The law as proposed by the commission was enacted without any change. It can truly be described as the work of the people of the State of New York themselves.

While the phrasing of the new law constituted legislative pioneering, the principles which it applied to the betterment of human relations were as old as American democracy and as basic as the Declaration of Independence and the Bill of Rights.

Senate bill 984 sets forth these same principles and gives them embodiment in the national field, subject to the constitutional restrictions applicable to Federal legislation.

THE OBLIGATIONS IMPOSED BY THE CHARTER OF THE UNITED NATIONS

This bill, in declaring the policy which it proposes to further, says (among other things) (p. 2):

"(c) This Act has also been enacted as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.'"

Subdivision 2 of article VI of the Constitution of the United States provides that—

"All Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall

be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding."

NATURE OF CIVIL RIGHTS

Section 2 of this act provides (p. 2) :

"(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States."

The New York law against discrimination enacted in 1945 declared :

"§ 126. Opportunity for employment without discrimination a civil right.—The opportunity to obtain employment without discrimination because of race, creed, color or national origin is hereby recognized as and declared to be a civil right."

Much has been written as to the nature of civil rights. But all authorities agree either that included in civil rights are such rights as the legislature shall recognize and declare to be such, or, in the absence of any such declaration, that they include such rights as under a free society are recognized as essential to the freedom of the individual and as part of the inalienable right of everyone to live.

As said by the Supreme Court of the United States in *U. S. v. Cruikshank* (92 U. S. (1875) 542, 553) :

"The rights of life and personal liberty are natural rights of man. 'To secure these rights,' says the Declaration of Independence, 'governments are instituted among men, deriving their just powers from the consent of the governed.' The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these inalienable rights with which they were endowed by their Creator.' Sovereignty, for this purpose, rests alone with the State."

In *People v. Barber*, 289 N. Y. 378, our State court of appeals recently said, per Chief Judge Lehman (p. 385) :

"It (the Bill of Rights) is a guaranty of those rights which are essential to the preservation of the freedom of the individual—rights which are part of our democratic traditions and which no government may invade."

The classic juridical definition of "civil rights" is that they are distinct from "political rights," and that the term "in its broadest sense includes those rights which are the outgrowth of civilization, the existence of which necessarily follows from the rights that repose in the subjects of a country exercising self-government" (*Grooms v. Thomas*, 93 Okla. 87; *Simpson v. Geary*, 204 Fed. 507, 512; *City of Dallas v. Mitchell*, 245 S. W. (Tex.) 944, 945; *Friendly v. O'cott*, 61 Oreg. 580; *People v. Barrett*, 203 Ill. 90; *People v. Washington*, 36 Calif. 658, 662; *Blackman v. Stone* 17 Fed. Supp. 102, 107).

The right to life, the most primary of all civil rights, can have no fulfillment without the right to work.

Denial or curtailment of the right to work by reason of race, creed, color, or national origin, deprives minorities "of their constitutional right to earn a livelihood" (*Carroll v. Local 200*, 133 N. J. Eq. 143, 147 and cases cited); "menaces the institutions and foundation of a free democratic state" (New York L. 1944, ch. 692, § 1); and draws the Nation toward the shattering abyss of racism and intolerance.

In the *Carroll* case, just cited, the court said (p. 146) :

"The right to earn a livelihood is a property right which is guaranteed in our country by the fifth and fourteenth amendments of the Federal Constitution, and by the State constitution."

OPPOSITION

Opposition to the enactment of this bill, like the opposition to the enactment of like legislation in New York, Massachusetts, New Jersey, and Connecticut, is largely on the ground that the law may unsettle tranquility of business, promote harassing and blackmailing suits, and divide employees into racial groups.

Even if this fear were well founded, it would not follow that the racial and religious minorities must pay with peonage, second-class citizenship, and frustrated lives the price of preventing such annoyances. But this legislation does not take such a pessimistic view of the American character or of democracy or of sound economics. Rather does it regard the business and industrial consequences as much better measured by the profound words of Mr. Eric A. Johnston, when president of the Chamber of Commerce of the United States, when he said publicly in January, 1946 :

"Wherever we erect barriers on the grounds of race or religion, or of occupational or professional status, we hamper the fullest expression of our economic society. Intolerance is destructive. Prejudice produces no wealth. Discrimination is a fool's economy. * * * The withholding of jobs and business opportunities from some people does not make more jobs and business opportunities for others. Such a policy merely tends to drag down the whole economic level. Perpetuating poverty for some merely guarantees stagnation for all."

It is also Mr. Eric Johnston who reminds us of another vital aspect of this matter of discrimination, by quoting Walt Whitman's famous lines: "This is not a nation, but a tumbling of nations." It is this all-American team, its unity strengthened by its diversity, that has victoriously brought the Ship of Liberty through the most evil wind that ever swept the world.

THE TEST OF EXPERIENCE

In New York, not one of the evil consequences that were feared by opponents of the legislation has materialized. The new law has fitted easily and smoothly into the economic structure. It has been wisely administered, in a spirit of statesmanship and with a view to the progressive accomplishment of sound and constructive results.

Of course, time is essential to its full development. As said on May 15, 1947, by one of the members of the New York Commission concerning achievements under the New York law:

"Necessarily it will take time before a full equalization of employment is achieved, for those groups barred from certain types of employment must necessarily become aware that opportunities in those fields are now open to them, and they must prepare themselves to take advantage of those opportunities.

"This takes time, but it is important for us to know today that the barriers of employment to any group in New York State are being eliminated in all types of occupations, and that the sound administration of this law will inevitably bring a complete equalization of opportunity to all people within our State."

However, full fruition of the New York law or of any like law in any other State will not be completely attainable until uniformity and support are supplied by like national legislation.

Not only in a few States but throughout the Nation as a whole there can be no true democracy without equality of opportunity to work and live without discrimination by reason of the accidents of birth or the differences of creed.

The means and the end contemplated are no innovation or revolution. They are merely a fresh affirmation of the American faith in one nation, indivisible, with liberty and justice for all. Recently our national legislation imposed, for the preservation of our country, equality of obligation on the battlefield; but such equality of duty has as its counterpart and necessary implication equality of opportunity in the paths of peace.

At the height of the present crisis in the world between democracy and the police state, this country cannot afford a verdict at the bar of world opinion that racial and religious discrimination is too thoroughly established in our economy to be outlawed.

Let us have faith in our minorities throughout our land, and be fair with them. They also hold the title-deeds to God's blessings upon America.

CONSTITUTIONALITY

Opposition also voices the thought that the underlying principles embodied in this bill may be unconstitutional.

But the recent course of judicial decisions has been such that it is scarcely conceivable that any court would attempt to nullify any portion of democracy's Ark of the Covenant, the Bill of Rights itself. To do so would be close to declaring democracy itself unconstitutional.

In *New Negro Alliance v. Sanitary Grocery Co.* (303 U. S. 552), the Supreme Court said (p. 501):

"The desire for fair and equitable conditions of employment on the part of persons of any race, color, or persuasion, and the removal of discriminations against them by reason of their race or religious beliefs is quite as important to those concerned as fairness and equity in terms and conditions of employment can be to trade or craft unions or any form of labor organization or association. Race discrimination by an employer may reasonably be deemed more

unfair and less excusable than discrimination against workers on the ground of union affiliation."

In *People v. Barber* (280 N. Y. 378) the New York court of appeals said (p. 380):

"We know now, more surely than ever before, that callousness to the rights of individuals and minorities leads to barbarism and the destruction of the essential values of civilized life."

In *James v. Marinship Corp.* (155 Pac. (2d) 329) the Supreme Court of California, in a decision announced on January 2, 1945, granted an injunction against the refusal of a local union having a closed shop agreement to permit members of a Negro auxiliary union to work in the shop. The court said:

"It's (the union's) asserted right to choose its own members does not merely relate to social relations; it affects the fundamental right to work for a living (citing cases). * * * The discriminatory practices involved in this case are, moreover, contrary to the public policy of the United States and this State."

In *Railway Mail Association v. Corsi* (326 U. S. 88) the Supreme Court considered the constitutionality of section 43 of the civil rights law of the State of New York. That section prohibited any labor organization from discriminating in the matter of membership and privilege on account of race, creed or color. In upholding constitutionality, the Supreme Court said:

"We have here a prohibition of discrimination in membership or union services on account of race, creed, or color. A judicial determination that such legislation violated the fourteenth amendment would be a distortion of the policy manifested in that amendment, which was adopted to prevent State legislation designed to perpetuate discrimination on the basis of race or color. We see no constitutional basis for the contention that a State cannot protect workers from exclusion solely on the basis of race, color, or creed by an organization, functioning under the protection of the State, which holds itself out to represent the general business needs of employees."

In *Steele v. Louisville & N. R. R. Co.* (323 U. S. 192) the Supreme Court held that a Negro railway fireman who was discriminated against because of color by the union chosen by the majority of his craft as bargaining representative under Federal Railway Labor Act, could properly invoke the protection of the court by injunction, notwithstanding that such discrimination was buttressed by the contract between the union and the employing railroad. The Supreme Court said:

"* * * we think that Congress, in enacting the Railway Labor Act and authorizing a labor union, chosen by a majority of a craft, to represent the craft, did not intend to confer * * * power upon the union to sacrifice, for the benefit of its members, rights of the minority of the craft, without imposing on it any duty to protect the minority."

"* * * the discriminations based on race alone are obviously irrelevant and invidious. Congress plainly did not undertake to authorize the bargaining representative to make such discrimination."

To the same effect are—

Tunstall v. Brotherhood of Locomotive Firemen and Enginemen (323 U. S. 210 (1944));

Morgan v. Virginia (328 U. S. 373);

Yale Law Journal (April 1947, p. 731, vol. 56, No. 4)—Discrimination by labor union bargaining representatives against racial minorities;

California Law Journal (September 1945, p. 388, vol. 33, No. 3)—The right to equal opportunity in employment.

NO VIOLATION OF THE RIGHT OF CONTRACT

Freedom of contract is not absolute. Like all other rights of person and of property, it is subject to reasonable regulations and prohibitions in the interest of the common welfare and of a sound and consistent democracy. As said by the Supreme Court of the United States in *Nebbia v. People of the State of New York* (291 U. S. 502, 527):

"The Constitution does not guarantee the unrestricted privilege to engage in a business or to conduct it as one pleases."

And in *West Coast Hotel Co. v. Parrish* (300 U. S. 379) the same Court, per Chief Justice Hughes, said (O. 891):

"What is this freedom (of contract)? The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law. In prohibiting that deprivation the Constitution does

not recognize an absolute and uncontrollable liberty. Liberty in each of its phases has its history and connotation. But the liberty safeguarded is liberty in a social organization which requires the protection of law against the evils which menace the health, safety, morals, and welfare of the people. Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process. This essential limitation of liberty, in general, governs freedom of contract in particular."

Hence, the courts have steadily upheld legislative authority to regulate labor conditions and relations, and to prevent the right to hire and discharge from being used to impair "the countervailing right" of employees (*Phelps Dodge Corp. v. N. L. R. B.* (313 U. S. 177); *N. L. R. B. v. Jones & Laughlin* (301 U. S. 1); *U. S. v. Darby* (312 U. S. 100)). The phrase "affected with a public interest" is no longer accepted judicially as the determining characteristic of businesses which can be subjected to "the economic and social programs of the States" (*Olsen v. Nebraska* (313 U. S. 236, 240)).

CONCLUSION

Senate bill 984 rests on sound principles.

It is a workable and moderate but effective expression in the economic field of the basic American doctrine of equality of opportunity.

It is supported by the precedent and experience of like legislation in several of the States.

It is called for by the Charter of the United Nations and by the leadership which this Nation must take in strengthening and validating the principles and practice of democracy throughout the world.

It is constitutional and it is statesmanlike.

Respectfully submitted.

CHARLES H. TUTTLE

JUNE 10, 1947.

Senator Ives. Mr. Chairman, in that connection, I don't think I stated for the record that Mr. Tuttle's activity in the particular legislation which was enacted in New York came about because he was the counsel for the temporary commission against discrimination which proposed and sponsored the bill.

Senator ELLENDER. As I understand, Senator, you are simply filing this for incorporation in the permanent record.

Senator DONNELL. That is right; yes, sir. I think we should have it incorporated in full in the permanent record.

The next witness is Rabbi William F. Rosenblum.

Will you please state your name, address, and something of your background?

STATEMENT OF RABBI WILLIAM F. ROSENBLUM, PRESIDENT, SYNAGOGUE COUNCIL OF AMERICA, NEW YORK, N. Y.

Rabbi ROSENBLUM. I am president of the Synagogue Council of America, which is the all-over coordinating body of our religious groups in this country, the orthodox, conservative, and reform groups. I am a graduate of the College of the City of New York and also of Tulane University Law School, Louisiana. Since you asked the previous witnesses, I thought I would get it in the record right now that I was a lawyer, but I advanced myself to a spiritual state by graduating from the Hebrew Union College of Cincinnati as rabbi in 1926.

Senator ELLENDER. What caused you to do that? Didn't you like law?

Rabbi ROSENBLUM. I advanced from law, realizing that justice had to be implemented in this field of human relations which we are dealing with now. I think it is a great profession and I am proud of it.

Senator DONNELL. Rabbi, have you given special attention to social problems in these matters?

Rabbi ROSENBLUM. Yes, sir. I have been a member of various groups dealing with that in our own Synagogue Council. For many years, I was on the social justice commission. At the present time, I am a member of an interracial commission in New York and several bodies of that character, and, together with representatives of the Federal Council of the National Catholic Welfare group, sit very frequently in consideration of subjects of a social import.

I am also chaplain of the Legion, and in that connection, come in contact very frequently with all problems of this character.

Senator DONNELL. That is, the American Legion.

Rabbi ROSENBLUM. Yes.

Senator DONNELL. You mean of the national organization?

Rabbi ROSENBLUM. No, sir. I am a chaplain of the Navy post. There are few Navy posts in the American Legion. During the war, I was one of the three—priest, minister, and rabbi—that spoke to many hundreds of thousands of soldiers on why to fight, and also stressing the fact of equality of opportunity and unity. It is interesting that present in this room is the priest on our mission to Alaska, Father Cardinal. That is my background.

While I occupy a representative capacity as president of the Synagogue Council of America, as indicated above, I come here as an American citizen, interested in the welfare of all Americans and especially in preserving those institutions that are vital to our democracy. It is from this larger point of view that I support the objectives of S. 984, known as the Ives-Chavez bill. I believe that failure to enact some such bill will make many Americans lose heart and faith in our democracy and plant thoughts of dictatorship in their minds.

It is natural that religious groups should come strongly to the support of any measure which puts into practice the fundamental principle that we have "one Father and that one God made us all," and, moreover, that "the earth is the Lord's and the fullness thereof." However, it is not merely from a theological point of view that we feel strong effort must be made against discrimination, but from the more practical aspect of preserving the rights of our citizens and especially of furthering the aims of our form of government.

One of those rights is the right to work, which this bill establishes for the first time, I believe, definitely as a civil right.

Following are some of the reasons why I believe the Ives-Chavez bill against discrimination should be enacted:

1. It is in keeping with the fundamental American concept as contained in the Declaration of Independence and as further implemented in our Constitution, that every American is entitled to equal opportunity, without regard to race, creed, or color, or whatever his situation socially, economically, religiously or with regard to geographical origin. One of the fundamental rights of an individual is to earn a livelihood, and it places a citizen in a condition of servitude to be the victim of practices which deprive him of that opportunity.

2. We have made a great deal of progress in this country in breaking down class barriers, and, of course, it differs in some localities as

to which group is discriminated against. There are places where Jews are discriminated against mostly. There are other places where the Negroes are discriminated against. In some places it is the Mexican group; in certain parts of New England which I visited recently, it was the French-Canadian group. It depends on the pattern of the different States.

There are some parts of the Nation which are more liberal than others, but there still persist in industry, as well as in education, particularly in many areas of employment, practices which make it impossible for people of certain religious and racial groups to receive fair and equal consideration when applying for jobs. Many employers and even labor unions are guilty of discriminatory policies. It is desirable that such un-American methods be eliminated, and since this is the aim of the Ives-Chavez bill, we feel it our duty as religious people to endorse it.

3. Efforts made in the State of New York and New Jersey, and perhaps other places, show that proper methods of intervention on the part of a duly established legal authority frequently result in having discriminatory practices stopped. A national law on the subject is bound to be helpful to local bodies working along these lines and will also reach those organizations which are not municipal or State in character, but country-wide in their operation.

When I say "organizations," I am referring to big corporations whose business is interstate and whose organizations are interstate. May I inject here that it has been my privilege to sit several times with advisory bodies of the State commission of which Mr. Turner was the chairman. So I am familiar with some of the operations and some of the work that has been done in the State of New York.

Senator Ives. Pardon me, I don't like to interrupt you, but I would like to ask a question. Do you approve the procedure they are following there?

Rabbi ROSENBLUM. I approve of it because I have been able to observe the procedure they have used. The procedure they have used thus far has resulted time after time in employers as well as employees admitting that, while they had reservations and they had these prejudices, after the trial, they said they found their fears were unwarranted, and perhaps that is one of the reasons why it has not reached the courts.

I have sat several times with the New York State Advisory Board, and while I am unable to be a member of it because of my official position, I have been familiar with its work.

Senator Ives. Thank you.

Rabbi ROSENBLUM. Discrimination is against all religious principle. When I say "all," I am not speaking as a Jew or as a rabbi. I am speaking as one who has been able to be in contact with all the other religious groups.

Senator ELLENDER. With reference to discrimination, what do you find most discriminated against, creed or color or just what?

Rabbi ROSENBLUM. I find in different places that the discrimination is for different reasons.

Senator ELLENDER. I know that, but is there more discrimination based on religion or race or creed or just what?

Rabbi ROSENBLUM. I must answer the way I stated, because I have lived in various parts of the country in which religion has been the basis. I know places where a Catholic could not get employment.

Senator ELLENDER. Where is that?

Rabbi ROSENBLUM. Somewhere in the South, in Texas, which I have had occasion to visit. On one occasion, I took a trip and invited a priest to come with me, and I have been told by some of my Protestant friends that that is not the right thing to do in this particular locality. That was in a place a little distance out of Houston: "We don't like them here." I have been in places where Protestants have been discriminated against.

Senator ELLENDER. You mean in work?

Rabbi ROSENBLUM. Yes; one organization in New York has luckily changed its practice from what it was when I went there 15 years ago because of the policy of its employment manager. The employment manager happened to be at that time a Catholic. He discriminated against the Protestants and particularly the Jews. That was not the policy of the corporation and they rectified it by getting a different employment manager. However, that was particularly a religious discrimination, not interested in the national origin or where they came from. It was because of religion. That particular woman had a conviction that only those of her particular denomination, religious denomination, could be the best employees.

Senator ELLENDER. Don't you think that that is a problem that should be dealt with by the churches rather than by law?

Rabbi ROSENBLUM. I think I will cover that in the statement that I make, or I can say it now. I believe that the forces of education must go on all the time. We have had religion for thousands of years, and I have found as a matter of actual experience after I became a rabbi and thought I had a call—and it was a God-given work—I frequently found men who were elders of the church, members of the vestry, who got up on Sunday morning and most beautifully read out of the Bible the advice that Jesus gave that there are only two great commandments. One is: "Thou shall love the Lord with all thine heart, soul, and mind"; the other, "Thou shall love thy neighbor as thyself," who nevertheless practiced discrimination in other things.

It is a difficult thing. As was indicated by one of the Senators speaking to you, though we have these aims and education and religion, it is difficult to get human nature to adopt it without certain disciplines. Even religions have to have disciplines in order to enforce some of the ideals that are accepted. I believe the church can help, but not enough.

Senator ELLENDER. Suppose we should try to do that legally.

Rabbi ROSENBLUM. To have the church in charge of that?

Senator ELLENDER. Yes, of course. It wouldn't meet the constitutional requirement, but that would be as good a reason to do it.

Rabbi ROSENBLUM. I am thoroughly convinced that the church should not enter into any field of enforcement of certain legal obligations. It would be highly political. It is one of the things that I see in some avenues of American life that I deplore. I believe that the church has its business to train people spiritually. It has the discipline within the church, but in the larger field of relations, where it comes in contact with other groups, there must be the all-over body;

that all-over body is the Nation, and for that reason, I believe in certain legislative forms to implement certain ideals.

I know Senator, that you and I agree on the basic ideals yet having life both in the North and in the South and in the West and in parts of New England. I know that patterns have a great deal to do with how people react, and for that reason, I am in favor of a bill of this character which sets a national pattern for a thing which is basically national.

I mean the right to work belongs to every person, no matter what his religion or ancestry. Everyone would agree to that in principle, yet when it comes into the field of the actual relationships, we are human beings.

Senator ELLENDER. Insofar as my State is concerned, I don't know of any cases where any employees were turned down because of their religion.

Rabbi ROSENBLUM. Senator, something must have happened to Louisiana since I was a student at Tulane.

Senator ELLENDER. I am talking about employment.

Rabbi ROSENBLUM. I am talking about employment, sir.

Senator ELLENDER. Well, I don't know of any cases.

Rabbi ROSENBLUM. I was in the city of New Orleans for 1913 to 1916. For 3 years I was called damned Yankee. I got along very beautifully, but I remember distinctly the policy of one organization which would not employ a friend of mine whose name was Stokes for no other reason than that he happened to be a Catholic, and I know of some of my fellow Jewish students, who were not too many, who, when the university had a very fine project, we were going to build a stadium—you may remember that time—and everybody was supposed to give 1 day's labor for that project. Several of us went out to work for that 1 day. I was on the committee and I had to wear a button, and I remember very specifically one of the stores in New Orleans said to me, "We'll help the project, but don't send us any Jews." I said, "It is a tough thing for me to do because I happen to be one myself," and, of course, I then got the usual answer: "Please don't misunderstand me. Some of my best friends are Jews, but that is the policy of the house." [Laughter.]

I say that, sir, because I believe it is true that in some parts, religion does play a part, but there are other things—I believe nationality. Sometimes the two are mixed.

Senator ELLENDER. As I said, I repeat, such a practice has never come to my notice. I have never been confronted with such a condition.

Rabbi ROSENBLUM. Are you referring to the Public Utilities Corp., which at one time in the city of New Orleans found it very difficult, I know, to employ—well, Jews in the telephone company found it very difficult to find employment. It was difficult to get the reason, but they were alike in every other respect.

I was associated with some of the activities as a young man while going to law school. I was the assistant superintendent of the employment office, and when our girls and boys reached a certain age, naturally, we had to find employment for some of them. So, Senator, in all honesty and in a genuine spirit, I tell you there were such instances there.

Senator ELLENDER. I don't deny it. I say they haven't come to my attention and the cases are far apart, I imagine.

Rabbi ROSENBLUM. That may be, sir. In the city of New York, the cases are not very far apart.

It is immoral and is destructive of the welfare of our democracy because it tends to set group against group and to sharpen a sense of conflict between classes. While the churches and synagogues and many public-spirited groups conduct campaigns of education against all forms of hatred and bigotry which result in discrimination, this is not enough.

The text of the Ives-Chavez bill will provide not only for additional educational effort and certain techniques of arbitration and conference, but will give to aggrieved persons a chance to have their wrongs rectified. It will make it costly for employers and others to practice discrimination, as well as give the entire subject the additional safeguard of being not merely immoral and irreligious, but unlawful.

The reason I favor some legislation is not merely because of the punitive idea; punish somebody. In business, if a thing is costly, they wouldn't do it. Now while mention has been made of employees here only, I speak of unions just as well. I think that unions in some cases are just as guilty, that if it is costly for them to do it, if it doesn't pay to follow a certain policy, then they wouldn't follow it. For that reason, I believe that legislation or a law of that character is helpful.

It has become trite to assert that we won the war because we put our prejudices and our discriminations aside in the all-out effort on the battlefield as well as behind the lines to defeat our enemies. However, this is an historic fact. We shall lose the fruits of our victory if we do not learn to be as united in peace as we were in war and as desirous of eliminating unwarranted discrimination, and I am talking about the right to work, in our peaceful pursuits as we were in the grim and stern business of bringing death and destruction to the dictators.

The Synagogue Council of America has gone on record, not only as an individual body, but in conjunction with the National Catholic Welfare group and the Federal Council of the Church of Christ in America, as being against discriminations in employment.

The Synagogue Council of America finds that the aims of the bill as expressed in paragraphs (a) and (b) of section 2 are not merely legislative but really spiritual in language and character, and it is heartening when legislation reflects the thing, after all, that this country, I believe, does stand for.

Senator SMITH. Rabbi, in the light of what I think is a very fine expression of this so-called spiritual approach in this matter of human relations, I would like to have your comments on the suggestion you have heard me make to other witnesses here with regard to the evolutionary approach to this in permitting the States to feel they might handle it on the educational basis and not wanting the arm of the Federal Government to come in to enforce it—whether that would create a better atmosphere in those States if they are permitted by legislative action to postpone the application of the Federal sanctions.

Rabbi ROSENBLUM. I have heard your proposal here. I have heard the discussion. Now I must revert to being a lawyer as well as a rabbi

because we are interested in implementing an aim. Personally, I believe if your suggestion were adopted, it would vitiate the force of the bill, because it isn't local; it isn't State-wide. The right to work, we feel, is a fundamental right. We are trying to establish a principle. That is a human right that belongs to every American.

Now the Constitution recognizes there are certain areas where the Federal idea supersedes perhaps the narrower State idea. So we have given up the right to declare war and make war and other things that we know are in the Constitution. I believe we are recognizing a principle now that this fundamental right to work should not be eliminated by anyone and not restricted by anyone, any American as regards another, and for that reason, I believe that if your proposal, sir, were accepted, that while I know it is a matter perhaps of political expediency and would step up the process of having the initial step, the bill accepted, that in those States perhaps and areas where it might be needed most, it would have the least chance of adoption.

Senator DONNELL. You do not favor the suggestion of Senator Smith. Is that correct?

Rabbi ROSENBLUM. Yes, sir; but not from a spiritual point of view, I must say, but from every other angle.

Senator SMITH. My thought is that you may inject the wrong spirit into a certain jurisdiction if they feel that it is something being forced upon them.

Rabbi ROSENBLUM. On the contrary, sir, I believe we recognize the principle of enforcing certain things. We do that during the war, when the national safety is in danger. We do not say to certain States, "You have the right to stay out because it will be enforced." We enforce it, and properly so, and I believe that the right to work is almost as important as the right to defense, that every man must be required to defend his Nation. I think it is a fundamental right that goes to the very roots of our democracy, and for that reason, sir, I sincerely believe that your suggestion might vitiate the very purpose you are trying to accomplish.

Senator ELLENDER. Rabbi, do you find much employment in New York today due to discrimination?

Rabbi ROSENBLUM. Employment due to it or lack of it?

Senator ELLENDER. No, due to it.

Rabbi ROSENBLUM. You mean do many people get jobs because somebody discriminates against others?

Senator ELLENDER. No; fail to get them.

Rabbi ROSENBLUM. Fail to get jobs?

Senator ELLENDER. Yes.

Rabbi ROSENBLUM. I think so, sir.

Senator ELLENDER. I read a little article last night where it said that today we have the greatest number of employees in the history of our Nation, and I know very few that are not employed. Now, as to those that are unemployed, do you know of any who are now failing to obtain work because of their religion or creed?

Rabbi ROSENBLUM. Yes, sir.

Senator ELLENDER. Will you give us the name and the employer?

Rabbi ROSENBLUM. No. I can give you the source of where to go for the information.

Senator ELLENDER. Well, the information I would like to have from you is this, and I think the committee should by all means listen to it: Give us the names of the employees who have been discriminated against and the names of the employers who have failed to employ.

Rabbi ROSENBLUM. I will give you the name of the agency that places people and knows that and can give you the information. I think that is as good as any.

Senator ELLENDER. Will you give it to the clerk before you leave?

Rabbi ROSENBLUM. I will be happy to state it publicly.

Senator ELLENDER. I don't want to take the time of the committee.

Rabbi ROSENBLUM. I will be glad to give it to the committee.

Senator ELLENDER. You say these things existed in New Orleans when you were there. You may have a few isolated cases there, I don't doubt that, but I am sure you will agree with me that it isn't general.

Rabbi ROSENBLUM. I wouldn't know, sir, because I haven't been there since 1916 for any length of time, but I know that in the city of New York today, and there will be other witnesses that will bear it out, as a member of an inter-racial committee in Harlem of businessmen, I happen to be the only rabbi on it; there are one or two ministers, but as one who is close to the employment bureau of the Y. W. C. A., I know that now they are receiving complaints of people who were formerly employed when there was much more employment who feel they are beginning to be discriminated against solely because of their color.

Senator ELLENDER. In Harlem?

Rabbi ROSENBLUM. In New York City. That committee works in Harlem, but the employment is all over the city.

Senator DONNELL. Well, hasn't the New York statute corrected this evil?

Rabbi ROSENBLUM. They do that. That is what I am trying to bring out. When these complaints come to the New York Discrimination Committee, they begin to work on it.

Senator DONNELL. But it has not eliminated the fact that there are still many cases of discrimination, has it?

Rabbi ROSENBLUM. No. There are efforts still being made, and that is exactly the point. When employment begins to be less general, there is a feeling—there always has been that—that there are organizations who will discriminate against others; in some cases it is the Negroes, in some cases the Jews, in some cases the Italians, in some cases the Catholics. I believe that we are beginning to feel these incidents because there is a recession in employment. However, I will give the committee the names of the people who are dealing with the situation and who have the facts.

Senator ELLENDER. Well, I don't see how that can exist in the light of the fact that we have at present as the aforementioned report showed last night, 58,000,000 people employed, and that is about the limit of the number that we have for employment, because you can't have complete employment, as you know.

Rabbi ROSENBLUM. There are 3,000,000 unemployable who will never be employed.

Senator IVES. May I interrupt there to point out that this just isn't a question of employment itself. It is a question of employment for the individual in line with the capabilities of the individual in

such a way that he can live up to his capabilities in the work he is doing and not be discriminated against for these reasons.

Rabbi ROSENBLUM. And when these instances occur, Senator Ellender, then they are brought to the attention first of these agencies, say, the YWCA, that branch of it, and when they see the allegations—sometimes a person says, "I am discriminated against because I am a Catholic, Jew, or Negro"—if they feel there is something to it, they do go to the New York Commission on Discrimination.

Senator ELLENDER. You say that you have had a lot of work done along this line, that you have much experience. Well, now, generally speaking, would you be able to tell the committee whether or not there is more discrimination because of race or because of religion or because of ancestry?

Rabbi ROSENBLUM. In the country as a whole, first, the order would be probably race. I think racial would be first. I think national origin would be next.

Senator ELLENDER. Well, that is race.

Rabbi ROSENBLUM. Then I believe religion would come third, in my opinion.

Senator ELLENDER. When you say national origin, how far removed?

Rabbi ROSENBLUM. Oh, immediately or the first generation ancestry if it is noticeable.

Senator ELLENDER. No further than the first generation, generally speaking?

Rabbi ROSENBLUM. No further than the second generation. That means the descendants of an immigrant will sometimes find difficulty if there are so-called noticeable traits of that ancestry.

Senator ELLENDER. Why should that be, have you any idea?

Rabbi ROSENBLUM. Why?

Senator ELLENDER. Yes.

Rabbi ROSENBLUM. Well, that is a different type of question which I will be glad to answer in my own personal opinion.

Senator ELLENDER. That is what I would like to know. The next question I want to ask you is why should that be because of religion?

Rabbi ROSENBLUM. First of all, there are fears. All kinds of people have fears, economic fears. When there is work for all, the problem is not acute, but when there isn't enough work, when the economic system does not provide enough work for everybody, then groups begin to arrange themselves as against others in order to preserve their own ability to work or a chance to get a livelihood.

Senator ELLENDER. Where do those groups organize themselves?

Rabbi ROSENBLUM. I didn't say organize themselves. For instance, if I am a white man and there are a certain number of jobs and I feel if others come in, they will tear down the standard of wages, and so forth, unconsciously there is a grouping.

Senator ELLENDER. You mean a grouping among employers?

Rabbi ROSENBLUM. Among people as a whole, because it is true of labor as well. There is one thing the labor people may not like, but I find similar tendencies in labor, and we have been talking merely of employers. They restrict the right to work. If the right to work depends in a certain industry upon belonging to a union and a union keeps out a Negro and keeps out someone else, they are restricting the right to work, too, but it is in self-defense. It is a certain human characteristic which sometimes is carried too far.

"If I let those people get in, my people will not be able to work"—that is the native American sometimes against the immigrant, and in our past history, we have had instances where there has been discrimination against the immigrant because they felt the wages will go down and the whole industry will topple. It is not true today because we have different standards and what not.

Senator ELLENDER. Why should there be discrimination because of religion?

Rabbi ROSENBLUM. There should not be, sir, because if there is any field where there should be none at all, it is the field of religion, because religion says we are all children of God. I have never known God to say, "I have only Catholic children or only Protestant children." Every religious group of the major groups here recognize that principle.

Senator ELLENDER. That is my feeling.

Senator DONNELL. I think what Senator Ellender means is why is there discrimination on the grounds of religion. Isn't that right?

Senator ELLENDER. Yes.

Rabbi ROSENBLUM. It would be a most difficult question for me to answer, sir, except to say again there are certain prejudices in the field of religion, unfortunately, sometimes more hatreds than in almost any other field; sometimes within one group you will find it. You will find the fanatics of one group who are so dead set against the liberals of that group that they will persecute them perhaps more than any other. Why it is, I wish I knew the answer. It is the one field where there should be love and understanding.

Father Cardinal, Dr. Spears, and I traveled throughout the war many thousands of miles. We demonstrated that we could live together, work together. He used his prayers; I used mine; Dr. Spears used his. Not a single one of us has gone to become stokers of furnaces in the lower regions. We all of us expect to meet some day in the upper regions. Here are three men of three different religions, but the people as a whole don't seem to practice it.

Senator ELLENDER. Now as to that religious aspect, don't you think the problem could be better met by letting the religious groups handle rather than writing it into law?

Rabbi ROSENBLUM. The religious groups have been teaching, with the exception of men like Coughlin and others, this idea of fellowship, but the experience of human nature has been, sir—that is the experience—that a man says one thing in church and believes it, and I think at heart he believes it, until when he gets out in the world of business. If we can get away from the idea that there is one world for business and another for religion and another for politics, and can realize that the world is an everyday world, perhaps we can break that down. So far, that has not been the human reaction, but with implementation of this kind, I really believe that it will help both the religious advancement and help our Nation.

Senator ELLENDER. That is just where we differ. I don't believe that you can create that atmosphere by law which will force people to do, because of certain religious beliefs, what the hearts of them do not feel they ought to do. Maybe I am wrong about that.

Senator DONNELL. The committee will be in recess for just a few minutes until the Senate will have acted upon a request for permission to continue. We will recess for just a few minutes.

(Whereupon at this point a short recess was taken.)

Senator DONNELL. The committee will be in order again. You may continue with your questioning, Senator Ellender.

Senator ELLENDER. The question I asked you a while ago pertained to religion and, of course, the freedom to work. Now I would like you to comment on the freedom of the employers to select persons of their choosing.

Rabbi ROSENBLUM. I think that the employer should have freedom, subject to the limitation that the choice should be made as to the ability of the man to work and to carry out the job and to have generally acceptable characteristics, but if he does not select him, it should not be on these bases that are described in the bill, because if you would permit that much freedom—incidentally, we are restricting many freedoms which we recognize are regulated. The State is always regulating the freedom of an individual.

I think an employer should be free to choose, with the exception of these limitations, anyone he wants. He shouldn't have to select people because they happen to be of a majority.

Senator ELLENDER. Well, isn't that the way it has really worked? As a matter of fact, hasn't the employer selected his own choice because he felt that it would do more good or that it would be more beneficial to his work or to his business than by employing others?

Rabbi ROSENBLUM. I think, if you will note, Senator, the bill says, for example, in establishments of 50 and over. I know modern industry a little, and in many places, it is not the employer any longer who makes the selection. Everything has become complicated. In certain places, he may select certain members of a certain craft or a union group. So that is limitation No. 1. If there is a personnel manager, very frequently the personnel manager—

Senator ELLENDER. He is a representative of the manager.

Rabbi ROSENBLUM. He is a representative and makes the selection. In common experience, we find he frequently makes his selection not based upon those particular tests. In many places there are tests. But he adds this other thing. Here are five men, all equally good, and very frequently he would say, "I wouldn't take So-and-So" and give a racial connotation. I say that an employer under our system of government should not be free to use that much selection or that kind of selective discrimination because it would destroy the very foundation upon which our Government rests.

Senator ELLENDER. Even though it would curtail his business?

Rabbi ROSENBLUM. No; not at the penalty of his business. He should not select anyone who is not qualified to do it.

Senator ELLENDER. Well, he must have some good reason.

Rabbi ROSENBLUM. We are talking about those cases, Senator, where they do not have good reason. That can be established, of course, by any number of processes which your law establishes.

Senator DONNELL. Well, Rabbi, at that point, suppose that an employer thinks that it would bring about disharmony and unpleasant conditions and chaos in his business to bring in the colored race into his office, for instance. Suppose he thinks that. Maybe he is wrong, but suppose he thinks it. Do you think that he should be permitted, then, to refuse to employ a colored person? Do you think that he should be required to employ a proportion of colored persons?

Rabbi ROSENBLUM. I would answer that on the basis of our experience during the war.

Senator DONNELL. Well, now, what is your answer?

Rabbi ROSENBLUM. During the war, I visited several plants, also on these missions, and I found that many of the big organizations which had these fears—even some of them in southern places—found that those fears were unwarranted, that when employees by and large were told, "You have to work with others in order to produce this product," they produced it and put their prejudices aside.

Senator ELLENDER. But you are denying that right of choice to the employer by forcing him into it.

Rabbi ROSENBLUM. I don't use the word "force." I use the words "enforcement" and "discipline." It is one of the fundamental principles of education that you not merely declare a certain principle, but you discipline people, you train them into it, sometimes against their will. I look upon those who use prejudices the same as upon those who are derelict in other directions. We have a certain system of law. If the citizen doesn't come up to our ideas and violates a law, in younger days he goes to a training school. We have certain punitive arrangements. I believe that the American employer, under our present development of government, does not have the right any longer to use this prejudice, and the all-over American community, I believe, has the right to force him to do certain things.

Senator DONNELL. I don't think that you have quite answered the question that I asked you, and I would like you to.

Rabbi ROSENBLUM. What is that, sir?

Senator DONNELL. I know you intended to, but I would like to get your answer. Suppose you take a case, factory X. The employer honestly believes that it would create lack of harmony and create chaos in the business to introduce two races into that factory, one white, the other colored. Now, that is his honest opinion. Maybe he is wrong about it. Would you allow him to decide that question or would you say that the law would have the right to say "You must take both of those, even though your own judgment is that it would create a lack of harmony in the business"? Now, would you give me your answer, please, to that?

Rabbi ROSENBLUM. If he had never done it before, he would not be in position. It would be merely a fear, a supposition, on his part. He would not be permitted to violate the law, but I think that if the introduction of any employee, no matter what it is, would cause a disruption in the business, I don't believe anybody would want to disrupt it. However, in the bill as I read the New York statute, there is provision for certain mediation, conciliation, education. There are several steps.

Suppose the employer says "I don't want to employ you, Rosenblum, You are a Jew and my people are Catholics and Protestants, and if you came in, good-by the whole thing." I say "Well, there is a State law. You can't discriminate against me on that ground. Besides, you have never employed one. Let's try it out."

Senator DONNELL. Well, you would require the experiment to be made?

Rabbi ROSENBLUM. I certainly would, sir.

Senator DONNELL. In other words, you would set aside the right of the employer to make that decision from his own best judgment.

Rabbi ROSENBLUM. If he made that decision and that employee came to me as a member of the commission, I would then follow the procedure that is used in the bill. What we are doing really is giving the right to the employee who considers himself discriminated against solely on that basis, and I emphasize that language, too. It must be proved that it is solely on that basis to come before the commission so that these processes may be used.

I think there have been cases, one or two cases, in New York where the matter came before the commission. The commission didn't force the employer to use a certain type of employee because in that particular case the allegation didn't have any basis whatsoever.

Senator DONNELL. I understand what your view is. If the employer in factory X honestly believes that it would create disharmony in his plant and the prospective employee, on the other hand, insists on the right to be employed, your judgment is that the matter should be left to the commission for determination as to whether the employer is right in his fears or whether he is wrong in his fears. Is that correct?

Rabbi ROSENBLUM. That is my idea; that the employee should have the right to be employed and then that the thing should be studied by the commission.

Senator DONNELL. That is, you will give the employee the right initially to be employed and then leave it to future developments to determine whether or not the employer's fears were or were not justified?

Rabbi ROSENBLUM. That is right. Maybe the employee will never come before the commission in a case like that.

Senator ELLENDER. I want to project my questions just a little further. Let us assume the personnel situation with respect, say, to a publication. I presume that you publish newspapers.

Rabbi ROSENBLUM. Some of our subsidiaries publish a magazine. It couldn't come under this bill. It is a religious publication. That is exempted.

Senator ELLENDER. I understand that that is exempted. That is exactly the point. Why is it exempted?

Rabbi ROSENBLUM. It is exempt first because it is a work of a certain type. That is why the bill recognizes that certain types of work must be confined to a group of people who have a certain philosophy. It would be a strange thing if I went to Father Cardinal to have him tell me what the Talmud says or if he came to me to tell him what the Christian doctrine is.

Senator ELLENDER. Why should it make a difference in the publication itself?

Rabbi ROSENBLUM. The publication reflects certain ideas. As far as a shoe, an automobile, or a piece of cotton goods is concerned, I have never known a customer to find a difference in cotton goods because it was made by a Negro, Catholic, or a Jew; but how a Bible is edited and published—

Senator ELLENDER. How is a newspaper published?

Rabbi ROSENBLUM. A newspaper should have the right to have certain people, to use certain people who reflect its policy, but that reflection shouldn't be on the color of a man's skin or the particular prayer that he says or whether or not his grandfather happened to be a

Portuguese or a Greek. There is a difference between a publication of a newspaper and our particular organization which has a special religious point of view. I wouldn't expect a Republican paper to employ Democratic writers.

Senator ELLENDER. Does your organization publish newspapers?

Rabbi ROSENBLUM. Several of our groups do. For example, our Union of American Hebrew Congregation published a magazine called Liberal Judaism.

Senator ELLENDER. Did you say Negro? [Laughter.]

Rabbi ROSENBLUM. There is a group of Negroes in New York that follow the Jewish religion. It is a very interesting thing but not for this committee. We publish Liberal Judaism.

Senator ELLENDER. In the newspapers you publish, is it a requirement that none but Jews are hired?

Rabbi ROSENBLUM. It happens not to be so. In the technical end, technical printing end, there are many who are not Jews at all. The editors, of course, are rabbis.

Senator ELLENDER. Well, I appreciate that.

Rabbi ROSENBLUM. In our temple, we have singers who are not Jews, and recently I officiated at a St. Patrick choir to sing.

Senator ELLENDER. Of course, they are hired to sing professionally. [Laughter.] That is all.

Senator DONNELL. Well, thank you very much, Rabbi Rosenblum, for your testimony.

The committee will recess until 2 o'clock this afternoon and reconvene in this room.

(Whereupon the committee recessed at 12:15 p. m., Wednesday, June 11, 1947, subject to reconvening at 2 p. m., (this date).)

(Rabbi Rosenblum submitted the following brief:)

STATEMENT OF RABBI WILLIAM F. ROSENBLUM, PRESIDENT OF THE SYNAGOGUE COUNCIL OF AMERICA, TO SENATE SUBCOMMITTEE ON ANTIDISCRIMINATION LEGISLATION ON 8. 1984

BIOGRAPHICAL

Rabbi William F. Rosenblum comes as president of the Synagogue Council of America, which is comprised of the three rabbinical and the three lay Jewish national bodies, i. e., Central Conference of American Rabbis, Rabbinical Assembly of America, Rabbinical Council of America, Union of Orthodox Congregations of America, United Synagogues of America, and the Union of American Hebrew Congregations. Rabbi Rosenblum is a graduate of the College of the City of New York (1910), of Tulane University Law School (1916), and of the Hebrew Union College, Cincinnati, where he was ordained in 1926. He is on the board of trustees of the Hebrew Union College Alumni and on the Central Conference of American Rabbis' committees on Scouting and on Army and Navy religious activities. During the war he served with the committee on Army and Navy religious activities of the Jewish Welfare Board. He was chaplain in the Army Reserve, and during World War II was a member of an interfaith trio which spoke to hundreds of thousands of men in the armed forces under the aegis of the National Conference of Christians and Jews and the War and Navy Departments. He was one of the first men on such mission, outside the continental United States, touring as far as Nome in 1944. Rabbi Rosenblum has appeared frequently on a number of national radio programs such as The Message of Israel, Faith in Our Times, Pride and Prejudice, and similar religious hours. He is a grand chaplain of Masons, State of New York. He served in the Navy during World War I and is chaplain, Navy Post 16, American Legion. He is also a member of the national board of the Jewish Welfare Board and the national board of the Joint Distribution Committee.

INTRODUCTORY

While I occupy a representative capacity as president of the Synagogue Council of America, as indicated above, I come here as an American citizen, interested in the welfare of all Americans and especially in preserving those institutions that are vital to our democracy. It is from this larger point of view that I support the objectives of S. 584, known as the Ives-Chavez bill. I believe that failure to enact some such bill will make many Americans lose heart and faith in our democracy and plant thoughts of dictatorship in their minds.

It is natural that religious groups should come strongly to the support of any measure which puts into practice the fundamental principle that we have "one God and that one God made us all," and, moreover, that "the earth is the Lord's and the fullness thereof." However, it is not merely from a theological point of view that we feel strong effort must be made against discrimination, but from the more practical aspect of preserving the rights of our citizens and especially of furthering the aims of our form of government.

Following are some of the reasons why I believe the Ives-Chavez bill against discrimination should be enacted:

(1) It is in keeping with the fundamental American concept as contained in the Declaration of Independence and as further implemented in our Constitution, that every American is entitled to equal opportunity, without regard to race, creed, or color, or whatever his situation socially, economically, religiously, or with regard to geographical origin. One of the fundamental rights of an individual is to earn a livelihood, and it places a citizen in a condition of servitude to be the victim of practices which deprive him of that opportunity.

(2) We have made a great deal of progress in this country in breaking down class barriers. There are some parts of the Nation which are more liberal than others, but there still persist in industry, as well as in education, particularly in many areas of employment, practices which make it impossible for people of certain religious and racial groups to receive fair and equal consideration when applying for jobs. Many employers and even labor unions are guilty of discriminatory policies. It is desirable that such un-American methods be eliminated, and since this is the aim of the Ives-Chavez bill, we feel it our duty as religious people to endorse it.

(3) Efforts made in the State of New York and New Jersey, and perhaps other places show that proper methods of intervention on the part of a duly established legal authority frequently results in having discriminatory practices stopped. A national law on the subject is bound to be helpful to local bodies working along these lines and will also reach those organizations which are not municipal or State in character, but country-wide in their operation.

(4) Discrimination is against all religious principle; it is immoral and is destructive of the welfare of democracy because it tends to set group against group and to sharpen a sense of conflict between classes. While the churches and synagogues and many public-spirited groups conduct campaigns of education against all forms of hatred and bigotry which result in discrimination, this is not enough. The text of the Ives-Chavez bill will provide not only for additional educational effort and certain techniques of arbitration and conference, but will give to aggrieved persons a chance to have their wrongs rectified. It will make it costly for employers and others to practice discrimination, as well as to give the entire subject the additional safeguard of being not merely immoral and irreligious, but unlawful.

It has become trite to assert that we won the war because we put our prejudices and our discriminations aside in the all-out effort on the battlefield as well as behind the lines to defeat our enemies. However, this is a historic fact. We shall lose the fruits of our victory if we do not learn to be as united in peace as we were in war and as desirous of eliminating unwarranted discrimination in our peaceful pursuits as we were in the grim and stern business of bringing death and destruction to the dictators.

The Synagogue Council of America has gone on record on other occasions in favor of an economic pattern in which there would be no place for discriminatory practice. In a telegram to Senators Mend and Bridges on July 5, 1945, it said, "The religious forces of the United States have overwhelmingly endorsed the principles of economic justice incorporated in the idea of the Fair Employment Practices Committee. Repeatedly, statements of every faith have declared the rights of all men to work at jobs at which they are qualified without discrimination because of race, color, creed, or national origin." In a part of an eight-point statement on economic justice, on October 10, 1940, they said, "It is the duty of

the organizations of workers, farmers, employers, and professional people to govern themselves and to assume their full responsibility for the ethical conduct of their own industry or profession and of the economic unity of the community and all its parts. It is also their moral duty to admit to their membership all qualified persons without regard to race, creed, color, or national origin."

It is our measured opinion and my own conviction that the enactment of S. 984 will be a step forward in making our American democracy more enduring and more capable of withstanding the strains of peace as well as the strains of war.

The Synagogue Council of America finds that the aims of the bill as expressed in paragraphs (a) and (b) of section 2 are not merely legislative but really spiritual in language and character. These are sentiments we can support.

AFTERNOON SESSION

(The committee reconvened at 2 p. m. pursuant to recess.)

Senator DONNELL. The committee will be in order, please.

Senator IVES. Mr. Chairman, this morning I requested that I be permitted to insert in the record certain portions of the report of the New York State Temporary Commission Against Discrimination which may seem applicable to the bill now under discussion. Upon further consideration of this matter, I have reached the conclusion that so much of this report is of value and may be of use to the members of this committee that I should like to present each of the members with a copy of it and not have any of it included in the transcribed minutes of the hearing, if that is agreeable to the chairman and members of the committee.

Senator DONNELL. That is agreeable, is it not, Senator?

Senator ELLENDER. Yes.

Senator DONNELL. I suggest, Senator, if you will be so kind, that you file one additional copy with the clerk of the committee.

Senator IVES. All right.

Senator DONNELL. The next witness is Dr. Beverley M. Boyd, secretary of the department of Christian social relations of the Federal Council of Churches of Christ in America, New York, N. Y.

STATEMENT OF DR. BEVERLEY M. BOYD, EXECUTIVE SECRETARY, DEPARTMENT OF CHRISTIAN SOCIAL RELATIONS, FEDERAL COUNCIL OF THE CHURCHES OF CHRIST IN AMERICA, ASSISTED BY DR. J. OSCAR LEE, EXECUTIVE SECRETARY OF THE DEPARTMENT OF RACE RELATIONS OF THE FEDERAL COUNCIL OF THE CHURCHES OF CHRIST IN AMERICA, NEW YORK, N. Y.

Senator DONNELL. Dr. Boyd, will you please state your name and address, your profession, and something of your background?

Dr. BOYD. Mr. Chairman, my name is Beverley M. Boyd. I am executive secretary of the department of Christian social relations of the Federal Council of the Churches of Christ in America, 297 Fourth Avenue, New York 10. I am an Episcopal clergyman who went into the work of the Federal Council about 21½ years ago. I have been active in the field of social work. Before coming to the Federal Council, I was president of the Council of Social Agencies in Richmond, Va.; president of the community fund in Austin, Tex., prior to that; and have had some experience in the field of social relations and particularly in the field of social service.

Senator ELLENDER. Where were you born?

Dr. BOYD. I was born in Roanoke, Va., and am a southerner by birth. I went to Washington and Lee University, Lexington, Va., and the University of Virginia, and the Virginia Theological Seminary, Alexandria, Va.

I appear here to express the views of the Federal Council of the Churches of Christ in America as stated in official action by its executive committee and at its biennial meetings.

Senator DONNELL. Has this executive committee, to which you refer, or the Federal Council itself at a biennial meeting passed specifically on this bill?

Dr. BOYD. It has, sir; and that is incorporated in the report.

Senator DONNELL. Very well.

Dr. BOYD. May I interpolate this sentence which is not in the written report which I gave you? In accordance with its usual custom through its executive committee, the Federal Council of Churches of Christ in America has not specifically endorsed Senate bill 981. It is on record as endorsing in principle the provisions embodied in this proposed bill.

Senator DONNELL. That is, you construe the principles for which the organization has expressed itself affirmatively to be the principles which are in S. 981. Is that right?

Dr. BOYD. That is right, sir.

Senator ELLENDER. Doctor, what is your denomination?

Dr. BOYD. I happen to be an Episcopalian.

Senator ELLENDER. I notice here that you state you are secretary of the department of Christian social relations of the Federal Council of the Churches of Christ in America. Is that association composed of other denominations than Episcopalians?

Dr. BOYD. Yes; 25, sir, as I am going to read here. It is a cooperative group of 25 Protestant denominations.

Senator ELLENDER. Twenty-five Protestant denominations?

Dr. BOYD. Yes, sir.

Senator ELLENDER. How do you support yourself?

Dr. BOYD. By voluntary contributions from the constituency from each one of the denominations.

Senator ELLENDER. What is your main function?

Dr. BOYD. I think I could express it very briefly that the main function of the Federal Council of Churches, certainly one of its main functions, is to express through cooperation and to prove that through cooperation there are certain areas, certain fields of work, in which we have learned and, we trust, we are learning each day to work together better than separately than in our individual denominations.

Senator ELLENDER. What part does the religious views of each denomination play in it, if any?

Dr. BOYD. The Federal Council of Churches cannot make any theological statement that is binding on any one of its constituency. It is cooperative work. We will hold to our theological differences so that we can work together cooperatively in the field of social relations, labor relations, race relations, or in research in education, and so forth.

Senator ELLENDER. Does your council have as any of its members all churches, whether whites or colored?

Dr. BOYD. Yes; we have colored church denominations in the Federal Council as members of the council. As a matter of fact, our

immediate past vice president was a member of a Negro church, Dr. Benjamin May, of Georgia.

Senator ELLENDER. And there is no distinction made at all, is there?

Dr. BOYD. None whatsoever, sir.

Senator ELLENDER. Now has this council made any studies?

Dr. BOYD. Through our race relations department we are constantly making studies in the field of race relations, if that is what you mean, sir.

Senator ELLENDER. Yes; that is what I am talking about. What about the religious aspect? Is it your view that we should legislate as to that also in respect to employment?

Dr. BOYD. I wonder if you will grant me the courtesy of saying that I am here to read this official statement, and I will be glad to answer any questions personally.

Senator ELLENDER. Very well.

Dr. BOYD. I am representing a corporate group. I don't want to dodge that because I think it is in our statement here. I am answering partly your question.

Senator ELLENDER. Proceed in your way, sir.

Senator DONNELL. Doctor, may I interrupt you a moment, please? Has this specific statement you are about to read been presented to the executive committee of the Federal Council of Churches?

Dr. BOYD. That specific statement has not, sir.

Senator DONNELL. Well, notwithstanding your good faith, of which I have no question, in construing the principles for which your organization has expressed itself favorably as being principles which are incorporated in S. 984, I would like to have not merely your own conclusions as to that, but I would like to have in this record just what specific action the Federal Council of the Churches of Christ in America at any of its biennial meetings has taken which, in your judgment, establishes that it is favorable to the principles of S. 984.

Dr. BOYD. On page 3 of this report, Mr. Chairman, I refer to that. I don't have it in the file which I have with me, but I will be glad to send to you an official statement in full of the action of the Federal Council at a special meeting held in Columbus, Ohio, in March 1946, and also the full statement which I have not quoted in here in full that was adopted at the biennial meeting in Seattle last December.

Senator DONNELL. You do not have either of those statements, March 1946 or the December 1946 statement?

Dr. BOYD. No. I do not have them in full. I will refer to them, sir.

Senator DONNELL. Will you be kind enough to send to the clerk of this committee a copy of each of these statements in full?

Dr. BOYD. I will be glad to, sir.

Senator DONNELL. That will be received for the record and incorporated in the record.

Dr. BOYD. Yes, sir.

(The statement referring to the Ohio meeting subsequently was submitted and is as follows:)

THE CHURCH AND RACE RELATIONS

(An official statement approved by the Federal Council of the Churches of Christ in America at a special meeting, Columbus, Ohio, March 5-7, 1948)

Many Christians in America are deeply conscious of the heavy obligation that inheres in their purpose to establish Christian fellowship. In the light of the increase in racial tensions in many communities across America the term "Christian fellowship" means more than cooperation in a common task. In the early church there was a mysterious power in the unity of Christ's disciples. They were so moulded by internal bonds of brotherhood, so "tightly framed together" that the Apostle Paul could refer to them as "one body in Christ." This was the community indwelt by the Holy Spirit and made hold by the consciousness of an essential unity that "turned the world upside down."

We believe the church today must seek to rediscover the transforming power that inhered in the undivided early Christian community and then apply that power to the massive problem presented by race tensions in community life.

THE SEGREGATION PATTERN ANALYZED

Segregation is the pattern of our American race relations. Segregation in America is the externally imposed separation or division of individual citizens, or groups of citizens, based on race, color, creed, or national origin. It is accepted, with some differences of emphasis, in all sections of the country. It is sometimes established and supported by law. In other instances, segregation is almost as rigidly enforced by social custom.

Segregation in America has always meant inferior services to the minority segregated. This pattern has never been able to secure equal separate services to the minority segregated. Segregation is always discriminatory.

Segregation is an expression of the inferiority-superiority pattern of opinions about race held tenaciously by the vast numbers of Americans. Segregation is not only the expression of an attitude; it is also the means by which that attitude is transmitted from one generation to another. Children of our society, observing minorities as we segregate them, cannot easily escape the conclusion that such minorities are inferior.

Segregation as practiced in America probably has more effect on the racial opinions of the young than formal teachings of the schools about democracy or of the church about Christian brotherhood.

Segregation as applied to our economic system denies to millions of our citizens free access to the means of making a living and sets for them insurmountable obstacles in their efforts to achieve freedom from want.

In the greatest crisis in our history segregation made it impossible to utilize fully large sections of our manpower in the armed services and war production. It also seriously limits the contributions of minority groups to the ongoing life of our people in the fields of art, education, science, industry, etc.

Segregation subjects sections of our population to constant humiliation and forces upon them spiritual and psychological handicaps in every relation of life. This creates a yawning and oftentimes unbridged chasm in the quality of human fellowship and stands in contradiction to the higher American dream. Still more devastating is the moral and spiritual effect upon the majority.

Segregation handicaps the Nation in international relationships. It was a source of great embarrassment to our leaders that we found it difficult to locate an American community where racial practices were acceptable for establishing the headquarters of the United Nations Organization. This is a discouraging factor within our life as a Nation as we begin to play our part in the new world unity upon which our future existence depends.

Political segregation has disfranchised large numbers of our citizens, tending to create unnecessary confusion in dealing with important national issues, creating unreal political divisions and giving rise to a type of political demagoguery that threatens the very existence of democratic institutions.

Segregation increases and accentuates racial tensions. It is worth noting that race riots in this country have seldom occurred in neighborhoods with a racially mixed population. Our worst riots have broken out along the borders of tightly segregated areas.

The pattern of racial segregation in America is given moral sanction by the fact that churches and church institutions, as a result of social pressure, have so largely accepted the pattern of racial segregations in their own life and practice.

THE FACTS ABOUT SEGREGATION IN PROTESTANT CHURCHES

"There are approximately 6,500,000 Protestant (church members among) Negroes. About 6,000,000 are in separate Negro denominations. Therefore, from the local church though the regional organization to the national assemblies over 90 percent of the Negroes are without association in work and worship with Christians of other races except in interdenominational organizations which involve a few of their leaders. The remaining 500,000 Negro Protestants, about 10 percent, are in denominations predominantly white. Of these about 95 percent, judging by the surveys of five denominations, are in segregated congregations and are in association with their white denominational brothers only in national assemblies, and, in some denominations, in regional, State, or more local jurisdictional meetings. The remaining 5 percent of the 10 percent in white denominations are members of local churches which are predominantly white. Thus only one-half of 1 percent of the Negro Protestant Christians of the United States worship regularly in churches with fellow Christians of another race. This typical pattern occurs, furthermore, for the most part in communities where there are only a few Negro families and where, therefore, there are only on an average two or three Negro families in the white churches.

"Negro membership is confined to less than 1 percent of the white churches, usually churches in villages and small towns where but a few Negroes live and have already experienced a high degree of integration by other community institutions and one might add, communities where it is unsound to establish a Negro church since Negroes are in such small numbers."¹

SEGREGATION MORE PREVALENT IN CHURCH THAN IN PUBLIC-SCHOOL PRACTICE

While nationally the pattern of segregation is too common in our public schools, it is more general in the church in worship and fellowship than in the public school systems. There are large numbers of school systems where racial separation is not practiced and very few churches where the racial separation is not obvious. Furthermore, the segregation pattern in public education seems to be changing more rapidly than in the churches.

There are some exceptions to this among the denominations and in certain interdenominational agencies, notably councils of churches. In spite of these, on the whole our religious bodies are divided on a racial basis, both in national organizations and in local congregations. So complete is the acceptance by the church of this segregation pattern that fellowship between white and colored Christians in America is frequently awkward and unsatisfactory. While non-white persons are not absolutely barred by rule from so-called white congregations, the self-consciousness which their presence in the congregation and in the fellowship of many local churches arouses is such that it effectively bars them from freedom to worship and fellowship within such congregations.

PRACTICES IN CHURCH-CONTROLLED HOSPITALS SIMILAR TO RACIAL PRACTICES IN NONCHURCH-CONTROLLED HOSPITALS

A recent study indicates that the racial practices of church-controlled hospitals in this country are little different from such practices in other hospitals. Negro nurses, Negro doctors, Negro patients are excluded from most church-controlled hospitals just as they are from similar institutions secularly controlled. The correction of this situation is complicated by the fact that in many instances these institutions have lost their close organic connection with the churches and have come more and more to accept the standards of the secular community which surrounds them. However, they still maintain a relationship with the churches; in fact, more intimately now than in former years.

CHURCH SCHOOLS LESS SEGREGATED THAN HOSPITALS

Church schools established primarily for whites are somewhat less segregated than hospitals, yet large numbers of our church schools would no more violate the taboo of racial exclusion than would secular institutions under similar circumstances. Some of these schools resort to the most ingenious devices to avoid accepting Negro, Jewish, or Oriental students on the basis of equality with whites.

¹ Racial Policies and Practices of Major Protestant Denominations, by Frank Loescher (manuscript).

THEOLOGICAL SEMINARIES FREQUENTLY PRACTICE SEGREGATION

While there are notable exceptions, theological seminaries and training schools for Christian workers are all too frequently on a segregated basis. This has not been made necessary by specialization but results from the pressure of the general segregation pattern upon the church by the community. In view of this, it is not strange that large numbers of our white Protestant ministers are confused and uncertain as to the Christian interpretation of race relations in their local churches and in their communities. On the other hand, ministers in colored churches frequently doubt the sincerity of their white brethren. Christian fellowship among Protestant ministers in this country is on the whole strained and unsatisfactory. It will continue to be so as long as we so largely segregate racial groups in ministerial training. Association in their training would be a vital part of the education of Protestant ministers. They would learn some things from this experience which cannot be taught by books.

WHAT MUST THE CHURCH DO?

Christians in America, more than ever before, honestly desire that quality of Christian fellowship which strengthens brethren of one racial group through the mutual helpfulness of brethren of all racial groups. Efforts directed toward such mutual helpfulness are frequently confused and ineffectual because of the segregation pattern which defeats good will. Men of God will find themselves frustrated and defeated when they attempt to live out their Christian impulses within a racially segregated society.

THE CHURCH MUST CHOOSE

Either the church will accept the pattern of segregation in race relations as necessary, if not desirable, and continue to work within this pattern for the amelioration of racial tensions or it will renounce the pattern of segregation as unnecessary and undesirable.

The Federal Council of the Churches of Christ in America hereby renounces the pattern of segregation in race relations as unnecessary and undesirable and a violation of the Gospel of love and human brotherhood. Having taken this action, the Federal Council requests its constituent communions to do likewise. As proof of their sincerity in this renunciation they will work for a nonsegregated church and a nonsegregated society.

The church when true to its higher destiny, has always understood that its gospel of good news has a twofold function, namely:

To create new men with new motives.

To create a new society wherein such men will find a friendly environment within which to live their Christian convictions.

The churches of America, while earnestly striving to nurture and develop individuals of racial good will, have at the same time neglected to deal adequately with the fundamental pattern of segregation in our society which thwarts efforts of men of good will. This must be corrected. Churches should continue to emphasize the first function; however, they must launch a comprehensive program of action in fulfillment of the second function. This is imperative now.

THE CHURCH MUST ELIMINATE SEGREGATION FROM ITS OWN LIFE

In order that the church may remove the validity of the charge which the world makes when it says, "Physician, heal thyself," we urge our constituent communions to correct their own practice of segregation. With this end in view, it is recommended that each communion take steps to ascertain the facts concerning the practice of racial segregation within its own life and work, and formulate a plan of action in the following areas:

MEMBERSHIP

Are all children of God welcomed into the membership of the communion's parish churches or are there some who are excluded by the color with which God has endowed them? What actions are necessary to correct this practice? We urge this practice upon the churches of all racial and nationality groups.

FELLOWSHIP

Does racial segregation create a chasm which places profound limitations upon Christian fellowship within the life of a given geographical community? If so, what can be done to remove these limitations?

WORSHIP

What is the extent of racial segregation in the services of worship provided by our communion? Are worship opportunities available to racially mixed groups with sufficient frequency to make such worship a normal expression of our common worship to God without racial self-consciousness and embarrassment?

SERVICE

What is the extent of racial segregation in the administrative practices provided in schools, colleges, seminaries, hospitals, camps, young people's conferences and similar church-related institutions under the control of our communion? What are the steps that should now be authorized and carried out by the responsible boards of the communion to overcome these defects?

EMPLOYMENT

Do the local churches, State and area judicatories, national boards, and general ecclesiastical offices provide opportunities for the employment of persons at all levels drawn from racial minority groups? If so, is the proportion of such interracial employment fair? If not, what legislative actions and administrative procedures should be proposed within each communion to bring employment practices within its entire life into conformity with the Christian goal of a nonsegregated society?

The church, having chosen to renounce the segregation pattern as a violation of its gospel of love, and having outlined steps by which the practice of segregation may be corrected within its own life, must next direct her attention to the community within which the Christian church functions.

THE CHURCH SHOULD INITIATE THE CLINICAL APPROACH AS ONE METHOD OF
RESOLVING RACE TENSIONS

In order that the community may sense the transforming power of organized religion in relieving community tensions arising from the segregation pattern locally, we urge upon churches and church councils the value of race relations clinics to affect the daily lives of people where they live and work.

Such clinics seek to discover factually what are the actual tension points in interracial living and, in the light of such facts, what constructive steps may be taken to alleviate these tensions. The churches, through ministerial associations and councils of churches, take the initiative in enlisting the cooperation of the leaders of social, labor, business, and civic agencies of the community. The fact-finding process and the diagnosis based thereon deal with such questions as discrimination in employment, housing, education, health, and leisure-time activities. It further analyzes the communities' resources, including the churches, to ascertain where they integrate and serve Negroes and other minority racial groups as well as where they fail. By this means they seek to develop methods of factual analysis and through democratic agreement formulate a community-wide plan of action to change the policies and practices that have created tensions and segregation patterns.

We have outlined what we believe to be certain glaring defects in the ideals and purposes of our Protestant churches in the matter of race relations, calling special attention to the un-Christian character and unfortunate results of the segregation pattern. We are not unmindful of the heroic services done by the churches through their schools, colleges, and other institutions in improving the condition of Negro and other minority groups, but we believe that these efforts will not accomplish their full results unless the Christian church again accepts as a definite goal the practice of the early Christians in accepting all racial groups into the same religious society on the basis of equality.

Senator ELLENDER. Doctor, you had no particular bill before you during any of these discussions, did you?

Dr. BOYD. In 1944 Dr. Samuel M. Cavert, general secretary of the Federal Council of the Churches of Christ, appeared before the House Committee on Labor of the Seventy-eighth Congress in testimony on the bill to prohibit discrimination in employment. That is part of the records of the Congress.

Senator DONNELL. Of course, Doctor, the proponents of this bill assert there is very material difference between this bill and S. 101, which was the one in the Seventy-ninth Congress, and when, I think, we have heard whatever you base your judgment on that your organization has expressed itself in favor of principles which you think are identical with those in S. 984, then our committee will be in a position to exercise its independent judgment as to whether or not we concur with your view that your organization has expressed itself in favor of the principles of S. 984.

Dr. BOYD. May I make two statements with regard to that, Mr. Chairman? No. 1. Prior to preparing this statement, and anticipating that we might be asked or be granted the privilege of appearing before your committee, I, as secretary of this department of the Federal Council, and Dr. J. Oscar Lee, who is secretary of our race-relations department, who happens to be in the room, sent a telegram to all of our constituency, asking for their latest pronouncement on the whole business of racial discrimination, and so forth, and were they in favor of this. So the statements I have made in here are fresh from our denominations.

Senator DONNELL. You mean you set forth the statements that have come back to you as a result of this?

Dr. BOYD. I have them in here; yes.

Senator DONNELL. You speak of sending it to your constituency. To how many?

Dr. BOYD. It did not go to all of the 25.

Senator DONNELL. How many did it go to?

Dr. BOYD. It went to 15.

Senator DONNELL. Well, did those denominations in turn hold meetings of any of their executive committees or of their entire organization after receiving your message?

Dr. BOYD. That I could not answer, sir.

Senator DONNELL. When did you send your message?

Dr. BOYD. On May 20.

Senator DONNELL. You don't think it is likely, do you, that they have held any general meetings, I mean to say, as distinguished from executive committee meetings?

Dr. BOYD. Two of the denominations have recently had their meetings. I am thinking of the Presbyterian Church which met in Grand Rapids, I think, a week or so ago. I have here their social-action statement which was adopted by the general assembly. They did not mention this bill particularly, but they have got a clause in there with regard to this discrimination because of race, and so forth. The Northern Baptist Convention has only recently met in Atlantic City, and they are on record, sir.

Senator DONNELL. Did the other Baptist organizations which met in St. Louis just a few weeks ago pass on this subject?

Dr. BOYD. I do not know, sir. The Southern Baptist Convention are not members of the Federal Council of the Churches of Christ in America. Therefore, I am not competent to answer for them.

Senator DONNELL. Very well, proceed.

Senator ELLENDER. Doctor, in that connection, when you say that your council is composed of 25 denominations, do you mean 25 different churches or just what percentage of adherents to each denomination are members of the council?

Dr. BOYD. We estimate, sir, between 27,000,000 and 28,000,000 Protestants are members of the churches which go to compose the Federal council.

Senator ELLENDER. Out of a total of how many in the country? That number refers only to those in the United States?

Dr. BOYD. Oh, yes. This is on a national level. Out of a total of—gracious; I don't know whether there is anyone in the room. I don't remember those figures. I mean it is not my particular field.

Senator DONNELL. Do you mind telling us what those 25 church denominations are? If it isn't convenient for you to give it to us at this moment, you can send it to us.

Dr. BOYD. I will be glad to send it to you. I should be able to call the roll, but I wouldn't like to trust my memory. However, I will be glad to furnish you with that, sir.

(Subsequently Dr. Boyd submitted the following roster:)

The churches which are today related to the council are as follows:

Northern Baptist Convention	Presbyterian Church in United States of America
National Baptist Conventions	Protestant Episcopal Church
Church of the Brethren	Reformed Church in America
Congregational Christian Churches	Russian Orthodox Church in North America
Czech-Moravian Brethren	Seventh Day Baptist General Conference
Disciples of Christ	Syrian Antiochian Orthodox Church of North America
Evangelical United Brethren Church	Ukrainian Orthodox Church of America
Evangelical and Reformed Church Friends	United Church of Canada
Methodist Church	United Lutheran Church (Consultative)
African Methodist Episcopal Church	United Presbyterian Church
African Methodist Episcopal Zion Church	
Colored Methodist Episcopal Church in America	
Moravian Church	
Presbyterian Church in United States	

Senator ELLENDER. Do you know what proportion of the southern churches adhere to this principle that was adopted by this council?

Dr. BOYD. The only southern denomination that is a member, if you confine it entirely to the seven Southern States, of the Federal Council is the Presbyterian Church in the United States, commonly called the Presbyterian Church. There is my own communion which has many churches in the South, many dioceses, as we call them, in every one of the Southern States. Some of the others are member churches of the Federal Council of Churches in the South, but the only ones that would be denominated by your geographical classification would be your southern churches.

Senator IVES. Is there a branch of the Presbyterian Church in the country that isn't part of this set-up that is endorsing this?

Dr. BOYD. Not that I know of, sir.

Senator IVES. The Presbyterians themselves are overwhelmingly on record, then.

Dr. BOYD. I might not make as sweeping a statement as that.

Senator IVES. Senator Ellender and I are Presbyterians [laughter].

Dr. BOYD. Have I answered your question, sir?

Senator ELLENDER. Go ahead, proceed.

Dr. BOYD. The Federal Council of the Churches of Christ in America is composed of 25 Protestant denominations with an approximate membership of 27,000,000, all of whose members, and I quote from the constitution, "share a basic faith in Jesus Christ as Divine Lord and Savior." Such a faith in Jesus Christ prompts these denominations to work together in order to secure a larger combined influence for the churches of Christ in all matters affecting the moral and social conditions of the people, so as to promote the application of the law of Christ in every relationship of human life.

There are three basic axioms which Christians accept as fundamental to the practice of Christian discipleship. They stem from the life and teachings of the founder of the Christian faith, Jesus Christ. They are as follows: The fatherhood of God; the brotherhood of man, and the infinite worth of each individual in the eyes of a Heavenly Father.

Therefore, when one brings into the arena of clashing human interests these principles as a guide, he must be prepared to work on many fronts. One of these many fronts is the economic front. The economic front cannot be divorced from the moral and spiritual principles which underlie human relationships. The right to work, we believe, is a divine right. It is not an isolated right. It embodies a moral principle which cuts across the whole of life. Because of this, it is clearly related to family life.

The economic basis of family life is a major factor in enabling the family to find its full expression in relationship to other families which go to make up society.

Senator DONNELL. Doctor, may I interrupt just a moment? On this message that you sent to the 15 denominations, do you mind telling us what that message was? It is brief, is it?

Dr. BOYD. Yes.

Senator DONNELL. What was the message that you sent?

Dr. BOYD. It is a telegram:

Hearings on—

we used the old title of—

FEPC opened June 11. Has your denomination taken stand on fair employment practices; if so, please send statement.

J. OSCAR LEE.

Senator DONNELL. From how many of the 15 did you get answers?

Dr. BOYD. They are all in here, sir, in the statement.

Senator DONNELL. You have only received the answers set forth in the statement?

Dr. BOYD. Yes, sir. May I explain just quite quickly our method of working, which is quite similar to the Congress? Each one of these 25 denominations, regardless of its size, is entitled to two representatives and then proportionately according to the number of members in that denomination. They form two bodies. One of the bodies of the council as a whole, which is composed of about 400 to 2,500 delegates, meets every 2 years in a biennial session and in the interim, between the meetings of the biennial sessions. In the Federal Council, we have an executive committee which is composed of between 90 and 100 members, on which committee each one of the

denominations has representation. The denominations name their own representatives, use their own methods, whatever methods there may be—Presbyterian, Baptist, Episcopalian, and what have you.

In other words, what I am saying is the Federal Council is in the hands of the denominations. Following the usual democratic procedure at both the executive committee meetings and at the biennial meetings, everyone has a chance to express himself. It doesn't mean that action is always unanimous, as I am quite sure you do not have unanimous action always in the Senate of the United States. My point is that we try to follow democratic methods.

I am not saying to you that all of our 25 constituencies or every member of the 25 denominations that go to compose the Federal Council always agree with the action taken by the executive committee or by the council as a whole, but it does represent the majority opinion of this group of Protestant churches that are working together when we issue an official statement.

Senator DONNELL. Now, Doctor, in your statement, if I may anticipate for a moment, I observe, unless I am in error, only six of your constituents are mentioned here as having taken action. Am I right on that?

Dr. BOYD. That is right, sir.

Senator DONNELL. Those are the 6 of the 15—

Dr. BOYD. That is right, sir.

Senator DONNELL. From whom you have heard. That is, you have heard from 6 out of the 15. Is that right?

Dr. BOYD. That is right, but there are others, sir, that I have not incorporated in here. I was trying to be brief. The telegram that we received stated that we had a certain amount of time. I don't like to plead this, but I will be glad to send you the action of the others which I did not put in here. They are perfectly obvious. The Negroes in our constituency have acted on this, but I did not put them in.

Senator ELLENDER. Why not?

Dr. BOYD. Pressure of time.

Senator DONNELL. Why did you not put the Negroes in? You had just as much time to put them in as you had to put the others in.

Dr. BOYD. Well, it certainly wasn't done with any intentional oversight, sir. We have the action of the Negro denominations.

Senator DONNELL. Well, at any rate, what I was trying to get at, Doctor, was not that primarily in my first question, but as the only basis on which you are giving us your statement today, so far as that basis rests on the action taken by recent date of your constituent body, is the action taken in response to the telegram to 15 out of the 25 or 26 of your constituents.

Dr. BOYD. Plus some former actions which still are on the records of the Federal Council, Mr. Chairman, going back to 1944 and as recent as 1946 at our biennial meeting, and by the statement that was put out by the special meeting of the Federal Council in March of 1946, which has been widely distributed.

Senator DONNELL. Included in the 6 from whom you have heard, as I understand it, of the 15, there are 3 whose action seems to have been taken back in '44, 1 in '45, 1 in '46, and only 1 in '47. When we get to that, I may want to ask you some questions as to the representation of those respective churches. But I understand you are now tes-

tifying that you have sent a communication to 15 of your constituent members, that you have heard from 6 of them; that of those 6, 3 of them referred you back to action taken in 1944, 1 to action taken in 1945, 1 to action taken in 1946 and only 1 refers you to action taken in 1947. Is that correct?

Dr. BOYD. That is right here.

Senator ELLENDER. Doctor, of the 15 telegrams that you sent, how many replies did you get in addition to the ones you have quoted in your statement?

Dr. BOYD. None, sir.

Senator ELLENDER. I thought you said you had some from the colored people of your council and, due to the lack of time, you didn't incorporate it in your statement.

Dr. BOYD. Perhaps I was a little confused there, Senator Ellender. I did not send one to them. I am looking over my list here. It was an oversight on my part, which I am telling you frankly, but I felt the main thing and the main purpose of this statement was to show that the Federal Council, as a council through its highest legislative groups, both the executive committee and the council itself, is on record.

Senator ELLENDER. Well now, what prompted you to send the 15 telegrams? You had that on record.

Dr. BOYD. Because we wanted to find out if there had been any change.

Senator ELLENDER. Why didn't you send it to the 25 members of your council?

Dr. BOYD. I have no answer for that, sir.

Senator ELLENDER. How did you come to select the 15? What method did you follow to select the 15 out of the 25?

Dr. BOYD. May I read the ones to whom we sent the telegram?

Senator ELLENDER. That wouldn't do any good. I am asking you why it is out of 25 you selected 15, and how did you come to select the 15?

Dr. BOYD. In consultation with my colleagues on the staff, it was our considered judgment that these were the 15, because, in the first place, there were some that we knew and were anticipating their annual meetings or semiannual meetings or what have you. That is the only answer that I can give you, sir.

Senator DONNELL. Why didn't you send it to the other 10, Doctor? What was the reason for that?

Dr. BOYD. I don't remember, sir.

Senator DONNELL. When did you send this telegram, did you say?

Dr. BOYD. The 20th of May.

Senator DONNELL. Can't you remember back that far as to why you omitted 10 out of the 25?

Dr. BOYD. No, I do not, sir.

Senator DONNELL. Well, would you mind telling us, of these 15 to which you sent the telegram, what are the nine from which you did not hear?

Dr. BOYD. I haven't got that record.

Senator DONNELL. You say you have the six from which you did hear. Those are listed here in your statement.

Dr. BOYD. Well, we did not hear from the Presbyterian Church of the United States.

Senator DONNELL. Wait a minute. You include that here in your statement as number one.

Dr. BOYD. Oh, no. That is United States of America, the Presbyterian Church of the United States of America, which is a Northern Presbyterian Church. The Presbyterian Church of the United States is the Southern Presbyterian Church.

Senator DONNELL. You did not hear from the Church of the United States. Is that right?

Dr. BOYD. That is right.

Senator DONNELL. What is the next one you did not hear from?

Dr. BOYD. The United Brethren.

Senator DONNELL. What parts of the country?

Dr. BOYD. Through the Middle West largely. They are meeting, by the way, in Florida this current week, I think, and I didn't include it in here because they haven't acted on it, but I have information that they are going to act on this particular thing.

Senator DONNELL. That is two of the nine that you have not heard from. Now can you give us the other seven in succession from which you have not heard in response to the telegram?

Dr. BOYD. I have only the names, sir, and I can't remember the affiliation.

Senator DONNELL. Do you mind, just so that we can make the comparison ourselves to save time, if you will just directly put into the record to whom you sent the telegram, if you don't mind? Just tell us the denominations.

Dr. BOYD. Northern Baptist; Presbyterian Church, United States of America; Disciples of Christ; Presbyterian Church, United States; United Lutheran Methodist Church; Evangelical and Reform; The Friends; The Evangelical and United Brethren; Church of the Brethren; The United Presbyterian.

The following churches were contacted by phone in New York: Congregational Christian Church and the Protestant Episcopal Church.

Senator DONNELL. Very well, go ahead, Doctor.

Dr. BOYD. Therefore, the right to work is important not only to the individual, but to the family and is necessarily basic to society as a whole. In this basic relationship, there is a moral principle involved. It may briefly be summarized as the right of every individual to work without discrimination because of race, creed, or national origin.

This principle is violated in practice. This violation then becomes a matter of major importance to persons concerned with moral issues. We cannot be indifferent to the well being of people and continue to call ourselves disciples of the Founder of the Christian Faith, Who Himself was interested in everything that affects a man's life.

Believing that fair employment practices is a moral issue, the churches comprising the Federal Council of the Churches of Christ in America, as far back as 1908, put themselves on record in a general statement known as The Social Ideals of the Churches. This general statement was brought up to date in 1932 and still remains basic in the thinking of the churches in regard to social issues. This basic document says in part:

We deem it the duty of all Christian people to concern themselves directly with certain practical industrial problems. To us it seems that the churches must stand for equal rights and complete justice for all men in all stations of life.

In 1944 at its biennial meeting, the Federal Council went on record as follows: We—

urge our Government to establish permanent procedures for securing the objectives which have been sought by the Committee on Fair Employment Practice, believing that discrimination in employment because of race, creed, or national origin is one of the great moral issues before our Nation today.

In 1944, Dr. Samuel M. Cavert, general secretary of the Federal Council, appeared before the House of Representatives' Committee on Labor of the Seventy-eighth Congress to testify in behalf of a bill to prohibit discrimination in employment. He closed his official statement with these words:

Madam Chairman, In summary, I should like to emphasize the fact that there is an awakening conscience in the churches on the whole question of justice for minority peoples in our national life. When we are asking Negroes and other minorities equally with white to fight and die in defense of democracy on the battlefields of the world, we cannot in good conscience be indifferent to any denial of democratic rights in our life at home. And one of the most elementary aspects of interracial justice seems to us to be equal opportunity for all workers to earn their daily bread. That is where there is a widespread support throughout the churches for the objectives sought by the bill which you are now considering.

Again in 1944, a representative of the Federal Council, later its president, Bishop G. Bromley Oxnam, appeared before the Senate Education and Labor Committee which was conducting hearings on a Fair Employment Practices Act. Bishop Oxnam said in part that—

Religion, education, and the law must unite to remove the causes of tension and then forestall petty demagogues who may appeal to prejudice and passion and summon men to the ways of violence.

At a special meeting of the Federal Council of Churches of Christ in America held in Columbus, Ohio, in March 1946, in a statement adopted entitled "The Church and Economic Tensions," we find these sentences:

The social ideals of the churches as previously adopted by the Federal Council constitute a general statement on these subjects which continues to be of enduring value. Two specific actions are even more significant now than when they were originally adopted.

From this evidence it is clear that the Federal Council of Churches stands firmly behind the moral principle of fair employment practices and believes that it should be enacted into law by the Congress as a basic principle in our economic life.

You will be interested in the action taken by several of the denominational bodies composing the Federal Council. I have these statements here, sir, if you wish.

The Presbyterian Church, United States of America, northern church, general assembly, in 1944 issued this statement.

Senator DOXNELL. Do you know what the membership of that church is?

Dr. BOYD. About two and a half million, approximately.

General assembly commends the essential purpose of the President's Fair Employment Practice Committee as being in keeping with Christian principles, and favor its receiving legislative sanction rather than remaining in its present status as an Executive order.

The Northern Baptist Convention met in Atlantic City May 23, 1947, and adopted the following statement—

Senator DONNELL. Do you know what its membership is, approximately?

Dr. BOYD. I will appeal to my colleague, Dr. Lee.

Dr. LEE. Close to a million.

Dr. BOYD (continuing):

Whereas discrimination in employment because of race, creed, or national origin is one of the great moral issues before our Nation today; and

Whereas the right of a worker to be employed and paid solely on the basis of his character and ability is so clear, just, and Christian that it should be protected by appropriate legislation; and

Whereas this has clearly been recognized in legislation passed recently in New York, New Jersey, Massachusetts, and Connecticut; Therefore be it

Resolved, That the Northern Baptist Convention urge the enactment of legislation designed to secure these objectives by other States' legislatures and their serious consideration by the Congress of the United States.

Senator ELLENDER. Doctor, this Northern Baptist Convention; is that composed of all colors, whites and blacks?

Dr. BOYD. Again I will have to appeal. I am not sure, not being a member of that constituency. I am sure they do.

Senator DONNELL. Could Dr. Lee assist you?

Dr. LEE. The Northern Baptist Convention is predominantly a white convention. There are Negro members.

Senator ELLENDER. To what extent do you practice segregation?

Dr. LEE. I don't know whether the question is apropos and I don't know whether I can answer that.

Senator ELLENDER. If you don't care to answer that you are not required to do so. I just thought maybe you knew.

Senator DONNELL. What proportion of the membership is white and what proportion is colored?

Dr. LEE. I am sorry, sir. He asked to what extent did they segregate.

Senator ELLENDER. To what extent do you practice segregation?

Dr. LEE. Well, I think that is a rather relative question. You can't say to what extent any group practices segregation.

Senator ELLENDER. I know some who don't practice it at all, and I am just wondering if you have in your group of churches any that will not admit the colored people.

Dr. LEE. Within my knowledge, I do not know of any that will not admit colored people. Now, if you want the number of people, I think predominantly the largest proportion of the membership is white.

Senator ELLENDER. I am not asking for the number. I was just trying to determine the extent to which you practiced segregation or you advocated it.

Dr. LEE. Well, Mr. Chairman, again, when you asked me that, you asked me to tell the practices of thousands of separate churches, and naturally it is impossible for me to tell you the practices of thousands of separate churches on segregation. I can say that the Northern Baptist Convention is on record counseling all of its churches not to practice segregation, but now to what extent each individual local church does or does not, I am not competent to answer.

Senator DONNELL. Doctor, while you are on your feet, of the number of the 1,000,000 members of the Northern Baptist convention, how many of those are white and how many colored?

Dr. LEE. I would say the larger portion of the members are white; I would say beyond 900,000. The largest group of Baptists in America would be the National Baptist Convention, which is a Negro convention.

Senator DONNELL. But of the Northern Baptist Convention, which I understand consists of about a million, you think over 900,000 are white, which means approximately less than 100,000 are colored. Is that right?

Dr. LEE. Yes.

Senator ELLENDER. Does the National Baptist Convention belong to this council?

Dr. LEE. Yes; it does, sir.

Senator ELLENDER. And you say that that convention constitutes mostly colored?

Dr. LEE. Yes.

Senator ELLENDER. Or all colored?

Dr. LEE. All colored.

Senator ELLENDER. What is the membership of that convention?

Dr. LEE. I would think, sir, about 4,000,000.

Senator ELLENDER. Are there any other Baptist conventions or any other Baptist churches that don't belong to either the National or the Northern Baptist Convention?

Dr. LEE. Yes; there are two groups. There are the Southern Baptist Convention, which is not a member of the Federal Council of Churches, and there is another Negro group called the National Baptist Convention Unincorporated, which is a smaller group and does not belong to the Federal Council.

Senator ELLENDER. You may not be able to answer this question and it may not be apropos, but can you tell me why it is that you have so many conventions among the Baptists? [Laughter.]

Senator DONNELL. As compared to the Presbyterians.

Senator ELLENDER. Well, all right, as compared to the Presbyterians or as compared to the Methodists. Can you answer the question?

Dr. LEE. I think that that question is not apropos, sir.

Senator ELLENDER. Well, the chairman is going to decide that.

Dr. LEE. I can't answer that.

Senator ELLENDER. You say you can?

Dr. LEE. I would rather not.

Senator DONNELL. Can you, Doctor?

Dr. LEE. Yes, I can.

Senator DONNELL. We would like for you to go ahead and answer that.

Dr. LEE. Briefly, I would say in the first place there were the splits. Your major split was just at the Civil War, and it was probably over the slavery issue. At that time, there were two conventions formed, the Northern Baptist Convention and the Southern Baptist Convention. Why the split in the Negro conventions I am not quite clear. I do believe that there were difficulties possibly about belief and a separate convention was set up. Now I think that, in short, is the difference. These, incidentally, were logical beliefs.

Senator ELLENDER. Now, as I understand it, you have the Northern Baptist Convention, with a million, of whom you said around 900,000 are whites.

Dr. LEE. That is an approximation.

Senator ELLENDER. Then you have the National, which has a membership of 4,000,000, all of whom are colored. Then you have the Southern—what is the name of it?

Dr. LEE. Southern Baptist Convention.

Senator ELLENDER. What is the number?

Dr. LEE. I don't know what its constituency is. It is larger than the Northern. That is all white.

Senator ELLENDER. Any colored in them?

Dr. LEE. No. That is where they practice segregation.

Senator ELLENDER. I knew that. [Laughter.] How about the other?

Dr. LEE. That is all colored.

Senator ELLENDER. Where is that convention located?

Dr. LEE. They have churches that are located throughout the country, largely in the Southwest, I would say.

Senator ELLENDER. Is that entirely colored or mixed?

Dr. LEE. That is entirely colored.

Senator DONNELL. Proceed, Dr. Boyd.

Dr. BOYD. The general council of the Congregational Christian Church met at Grinnell, Iowa, June 18-25, 1946, and adopted the following statement.

Senator DONNELL. What is the approximate membership of the Congregational Christian Church?

Dr. BOYD. I haven't brought the yearbook of the churches along with me. I would say over a million.

Senator SMITH. Is that the church we know as the Congregational Church?

Dr. BOYD. Yes. It was combined a few years ago.

Senator SMITH. There is no congregational title in any other group, is there?

Dr. BOYD. Not that I know of.

Senator ELLENDER. Does that 4,000,000 consist of the entire membership of that church?

Dr. BOYD. Yes. I am approximating, Senator.

Senator IVES. I think it is well over a million.

Senator ELLENDER. But it has one council, hasn't it?

Dr. BOYD. That is right.

Senator ELLENDER. Are there any other denominations of the 25 that belong to your council that have so many members that they are divided into certain councils as are the Baptists?

Dr. BOYD. No. I think all the denominations composed in the Federal Council have a pretty closely knit organization and are more centralized than our Baptist brethren who follow frequently, one might say, the congregational plan of organization or government plan of organization.

Senator ELLENDER. I believe you have a few councils in the Methodists, haven't you?

Dr. BOYD. No. If I am not mistaken, Senator Ellender, I am not an expert on ecclesiastical organization and politics, but I think I am right on this, that the general conference of the Methodist Church speaks authoritatively for the whole of Methodism, just as the general assembly of either the northern or southern Presbyterian Church speaks for their denomination, if that is what you mean.

Senator ELLENDER. That is because it has but one council.

Dr. BOYD. That is right.

Senator ELLENDER. Now you cannot apply that same rule to the full councils that deal with the Baptist denominations, can you?

Dr. BOYD. I may be wrong in this, and again, sir, I must state clearly that I am not an expert. I mean you take me a wee bit out of my field. I think I can say that when the Northern Convention of the Baptist Church and the Southern Convention or Convention of the Southern Baptist Church meet, I imagine the action taken jointly there by their messengers, I think, they are called, or delegates or deputies or what have you—whether it is actually binding on each individual Baptist congregation I cannot answer, if that is what you mean.

Senator ELLENDER. It may be binding to some extent on the two that you just mentioned, but would it be on the four?

Dr. BOYD. No.

Senator DONNELL. You spoke of the Methodist Church. Is the Methodist Church a member of the Federal Council of the Churches of Christ in America?

Dr. BOYD. Yes, sir.

Senator DONNELL. What is the membership of the Methodist Church?

Dr. BOYD. I think it is 8,000,000 now.

Senator DONNELL. Was it one of the churches to which you addressed this telegram?

Dr. BOYD. Yes.

Senator DONNELL. And you received no answer?

Dr. BOYD. Not as yet, but they are all with us, though.

Senator DONNELL. Bishop Oxnham back in 1944 spoke as you have indicated here, and he is bishop of the Methodist Church, is he not?

Dr. BOYD. Yes; and former president of the Federal Council.

Senator ELLENDER. Do you know if the entire membership of the Methodist Church is incorporated in one council or two or more?

Dr. BOYD. Well, over-all is the general conference. They are divided, as I think, into districts. I mean there is a New York district. They used to be called conferences. I understand they call themselves districts now. A good Methodist here can correct me, but they are divided into districts and those districts are brought together by the general conference, which is the council of bishops. What their legislative authority or power is I don't know, but I know that all of those districts or conferences or what have you are bound together by the one general council.

Senator DONNELL. Have you any idea why you didn't get a response to that telegram from the Methodist Church?

Dr. BOYD. No. They have so many fieldmen. We have tried to contact the executive on the national level, and he might have been out. That is the only answer I can give you.

Senator DONNELL. It has been 3 weeks since that wire was sent.

Dr. BOYD. Yes.

Senator ELLENDER. Do you know the extent to which the Methodist Church or Conference practices segregation?

Dr. BOYD. I could not answer that competently, sir. I could only speak for my own denomination. I could not answer that; I would not be competent to.

Senator ELLENDER. Let me ask about your denomination, the one that you belong to.

Dr. BOYD. The Protestant Episcopal Church?

Senator ELLENDER. Yes. Is the whole church represented by one council?

Dr. BOYD. By the general convention; yes, sir. We represent all of the Episcopal churches.

Senator ELLENDER. To what extent does the Episcopal Church practice segregation?

Dr. BOYD. It depends largely, sir, upon the section of the country.

Senator ELLENDER. Do you believe in that?

Dr. BOYD. I do not believe in segregation personally.

Senator ELLENDER. You do or you don't?

Dr. BOYD. No.

Senator ELLENDER. Where is your church located?

Dr. BOYD. I haven't a church now, but my last church was in Richmond, Va. I just said it depends upon the section of the country. It is hard to answer you specifically. That is personal. That is not speaking for the whole of the Federal Council.

Senator ELLENDER. What church do you now attend?

Dr. BOYD. I attend Grace Episcopal Church in Plainfield, N. J. I am on the staff. I am not a local pastor now.

Senator ELLENDER. Do they practice segregation in that church?

Dr. BOYD. No. There are Negro members in that church.

Senator ELLENDER. To what extent?

Dr. BOYD. Not many.

Senator ELLENDER. Do you know of any other Episcopal church in New Jersey where they practice segregation?

Dr. BOYD. I have only been there 2½ years, and I am not that familiar with New Jersey.

Senator ELLENDER. I see. Before you went to New Jersey you were in Richmond?

Dr. BOYD. Yes, sir.

Senator SMITH. I can say for the record, Mr. Chairman, that I don't know of any church in New Jersey that practices segregation of any denomination.

Senator Ives. The same goes for New York.

Senator DONNELL. Proceed now.

Dr. BOYD (reading):

Protection from discrimination in employment. Discrimination in employment because of race, creed, or national origin is one of the great moral issues before the Nation today. It threatens the basic economic rights of many individuals. We recognize that the immediate postwar period has brought with it increasing tensions between racial and religious groups in our country, and that reduction in employment will tend to work a special hardship on Negro and other minority groups.

We therefore reaffirm our support of legislation constituting permanent fair employment practices commissions for States and Nation such as will afford all citizens, regardless of race, creed, color, or national origin, equal opportunity to useful, adequately remunerative employment.

The General Synod of the Evangelical and Reformed Church met at York, Pa., in 1944 and adopted a resolution which we quote in part.

Senator DONNELL. What is the approximate membership of that?

Dr. BOYD. I think they are around 300,000, as a guess.

Senator DONNELL. Go ahead.

Dr. BOYD (reading):

Discrimination in employment because of race, creed, or national origin is one of the great moral issues before our Nation today. The right of a worker to be employed and paid solely on the basis of his character and ability is so clear, just, and Christian that it should be protected in law. This right should be safeguarded by appropriate legislative and administrative provisions.

Now this next one is an interdenominational group. It is not a church. It is composed of churches just as the Federal Council is.

Senator DONNELL. Is this one of the groups to which you sent the telegram?

Dr. BOYD. No; I did not. 'This is not a church.'

Senator DONNELL. Then you didn't hear from 6 of the 15, Doctor, did you?

Dr. BOYD. No; I did not.

Senator DONNELL. The next one after this, the Woman's Division of Christian Service of the Board of Missions and Church Extension of the Methodist Church, I take it, is one of the organizations to which the telegram was sent and which you heard from.

Dr. BOYD. Yes.

Senator DONNELL. So you heard from 5 out of the 15.

Dr. BOYD. The Home Missions Council of North America is a separate interdenomination. They are composed of members of the Home Missions Council. We work cooperatively with them. In fact, their national office is in the same building with ours in New York.

Senator ELLENDER. Have you specific instructions to represent them here?

Dr. BOYD. As part of the general statement, yes.

Senator ELLENDER. Proceed.

Senator DONNELL. You say that the Home Missions Council of North America is a member of the council?

Dr. BOYD. It is not a member, sir. It is a comparable organization dealing in the specific field of home missions.

Senator DONNELL. You are not connected with it, are you?

Dr. BOYD. No; I am not. It is one of our cooperating groups, if you draw the distinction.

Senator DONNELL. Pardon me, I don't understand. It is a group of the Federal Council of the Churches of Christ in America. It is not a part of that organization. It is just a friendly organization which does cooperate with your organization. Is that right?

Dr. BOYD. That is right. We meet together very friendly.

Senator DONNELL. All right. Now, in order that we may complete this list, I understood you to say the Woman's Division of Christian Service of the Board of Missions and Church Extension of the Methodist Church is one of the organizations to which you addressed the telegram. Is that right?

Dr. BOYD. I didn't address the telegram. I talked to their executive on the phone, sir.

Senator DONNELL. Let's see. You sent the telegram to 15 and you only heard from, as I see it, 4—4 out of 15—

Dr. BOYD. That is right.

Senator DONNELL. Instead of six. Is that right? I thought you testified a while ago that you figured that you had heard from six. 1

understand now that you heard only from 4 of the 15 to which the telegram was addressed. Is that right?

Dr. BOYD. Yes.

Senator DONNELL. If you will just count, here on page 4 is the Presbyterian Church of the United States of America, General Council of the Congregational Christian Church, the General Evangelical and Reformed Church, and the Northern Baptist Convention. These are the four from which you received replies from out of the 15 telegrams. Is that right?

Dr. BOYD. That is right, sir.

Senator DONNELL. And you didn't get any from the other 11. Is that right?

Dr. BOYD. That is right.

Senator DONNELL. I mean you didn't get any response from the other 11. Is that right?

Dr. BOYD. That is right.

Senator DONNELL. All right, go ahead.

Dr. BOYD (reading):

The right and opportunity for any worker to be employed without discrimination on account of race, color, creed, or national origin are so just and so in harmony with Christian ethics that all Christians and church agencies have a deep responsibility to stand for that clear Christian and democratic principle. We believe that Government should take such necessary legislative and administrative action as will protect the right to work from any such discrimination.

The Woman's Division of Christian Service of the board of missions and church extension of the Methodist church at its annual meeting on December 1, 1945, adopted a statement, and I understand they are planning and have requested to appear at the hearings before this committee. Therefore, I will not quote from their statement.

We stated in the beginning our belief that there is a moral issue involved in fair-employment practices. We reaffirm the belief that this moral issue is of deep concern to the Christian forces in this country. Further, our democracy is on trial in the eyes of the world. In this period of economic readjustment from wartime tasks to peacetime pursuits, full and fair employment for all groups is a necessity for a working democracy. The desire of the churches is to prove that democracy will work at the level of economic rights. It will not work unless we enact laws that will open the way for all individuals to be gainfully employed regardless of race, creed, or national origin.

Therefore, we urge you to consider making fair-employment practices a basic right of all people by enacting it into the law of the United States of America.

Senator SMITH. Mr. Chairman, I would like to ask the witness one or two questions before I go to another meeting, if I might.

Senator DONNELL. Yes, sir.

Senator SMITH. Dr. Boyd, I am interested in your presentation here and I think that any person with good Christian convictions would agree with your general statement of sound principles. The question we are faced with is the philosophy of our legislation and the form of our legislation and the question that I raised earlier with other witnesses whether, in dealing with a tender subject like human relations, we can pass laws to compel people to do things or whether we can combine both the educational process with the compelling process, and whether you see any distinction between that part of this bill which

is aimed to emphasize the education, conciliation, mediation, the talking it over and trying to develop an atmosphere of friendship, and whether you would go so far as to say we must have all over this great country of ours the compulsion of a Federal law even in areas where locally there may be some resistance to that method of approach.

Do you feel it is absolutely necessary, from your study of this matter, to have the element of compulsion all over this great country?

Dr. BOYD. I can't as a responsible officer, and I trust I am, of this group which I represent—this is out of our staff.

Senator SMITH. I am asking a personal judgment.

Dr. BOYD. In my personal judgment, I don't believe that any of us feel that merely by the enactment of a law, passing of a statute and putting it on the books, is going to change the innermost being and develop in them an attitude of real friendliness and the ideal of Christian brotherhood which we have mentioned. I do think that at times it becomes necessary, and at this stage of the development of human-kind, with all the inequities and inequalities that we see in our social life, that there is certainly some group—and I personally feel the Federal Government is the one to set the policy, as I think the rabbi mentioned.

Senator SMITH. I agree with you. It is the Federal Government's responsibility to state the policy. I agree with that, and I am a great believer and insistent on equality of economic opportunity. That is what we are discussing here. What I am getting at is the practical way to bring that about without intensifying antagonisms, but rather by building up the sense of brotherhood that you expressed in the early part of your statement.

Dr. BOYD. I do not wish to increase, as you know, the antagonisms, but my personal feeling is that maybe the time has come when to gain our goal we may have to increase those antagonisms, and maybe this is the practical step.

Senator IVES. Dr. Boyd, as a matter of fact, the records of the New York statute would indicate that you can have a certain limited amount of compulsion without increasing antagonisms; you reduce antagonisms. You reduce them by teaching them that they can work together.

Senator SMITH. Well, that stresses, of course, the educational feature which I am in entire sympathy with. I think, as Senator Ives indicated, that, "If you don't come in in a friendly way and help us work these things out, we may have to put the arm of the law on you"—that, I see, is in the picture, but we are trying to solve this problem without dividing our people but by uniting our people. I think the church has a great responsibility on that question of unity, and I think right on this question of segregation that is being suggested, the church is in a rather inconsistent position of urging us to pass laws to compel things when the church itself isn't willing to approach that question of segregation and bring them in without regard to race, creed, or color.

Dr. BOYD. Speaking for the Federal Council, it is definitely on record by its action at a special meeting, not merely the executive committee, but a meeting of the council as a whole, in this statement that we are against segregation within the church and exhorting the members who compose the Federal Council to work harder than they

ever have to abolish segregation. I think that it is a crying shame that there is segregation in Christian churches.

Senator DONNELL. Your organization does, however, leave it to the constituent churches to determine whether there should or should not be. Is that right?

Dr. BOYD. Yes.

Senator SMITH. I can see your belief, that the universe is large enough to include all, but I am trying to think whether we can bring it about by compulsion, and the suggestion I made this morning was to pass the law, have the teeth in the law, but in those areas of the country where they may be particularly incensed, to make it possible for those areas to say at least: "We are trying to solve this thing; don't bring the hand of the Federal Government down and compel us to do so. It will only cause division rather than unity."

Dr. BOYD. I see your point.

Senator SMITH. Do you think the matter ought to be explored, sir?

Dr. BOYD. It should certainly be explored, but I want to keep an open mind.

Senator SMITH. Do you want to go so far as to say that you disagree with the practicability of such an approach?

Dr. BOYD. The practicability of a Federal statute?

Senator SMITH. Whether you favor the over-all statute—

Dr. BOYD. I think I do.

Senator SMITH. With legal sanctions rather than permitting areas—

Dr. BOYD. I think it is something that involves all of us and not merely one section of the country.

Senator SMITH. I think that is true, but I am optimistic enough to believe that if we tried the educational process even in those areas where there is sensitivity today and we don't try to compel, we may make more progress and ultimately move toward the over-all recognition and the willingness to put on Federal sanctions to reach those extreme cases where injustice is done. I want to see legislation passed and see the legislation passed in the spirit of uniting our people. I don't want the South to feel, for example, that since the rest of us are in the majority, we can compel something that they are not ready to accept with open hearts. I want to see them work it out by education and mutual understanding with all their people. That is what I would like to see brought about. I think that is the right Christian approach to it.

Thank you very much, Senator. I have to go to another meeting now.

Senator ELLENDER. Doctor, Senator Smith brought out a few of the points that I desire to dwell on. Now you say that the council is not in favor of segregation. Does that mean in the churches only or generally speaking?

Dr. BOYD. I think what we try to do, Senator Ellender, is we don't say if it is good within the church, it is good on the outside.

Senator ELLENDER. So that when you say you are against segregation, you mean socially and every other way.

Dr. BOYD. I am not prepared to say that in the name of the Federal Council.

Senator ELLENDER. What does your Federal Council mean when it is against segregation, if it is not confined to your church only?

Dr. BOYD. Well, I don't think it means that. I think it does mean that if you mean by socially in all social relations.

Senator DONNELL. You think what in all social relations?

Dr. BOYD. I am sorry that I haven't a statement of the Federal Council.

Senator DONNELL. I didn't understand what you mean. What do you think the position of the Federal Council is in regard to segregation in all social relations?

Dr. BOYD. I think the Federal Council of Churches, based on the statement that I referred to again in Columbus, is against segregation in any area.

Senator DONNELL. Any area of social relations?

Dr. BOYD. Yes.

Senator ELLENDER. Throughout the United States, of course.

Dr. BOYD. Yes.

Senator ELLENDER. That means in schools, churches.

Dr. BOYD. Transportation, all public things.

Senator ELLENDER. Hotels?

Dr. BOYD. Absolutely, eating places, absolutely.

Senator ELLENDER. Don't you think that such a policy as that is the first step toward social equality among the races?

Dr. BOYD. Senator Ellender, again I will not answer that in the name of the Federal Council.

Senator ELLENDER. I want you to answer it personally.

Dr. BOYD. Personally, I think that is up to the individual, if he is a Christian enough. We are all children of God. That is my interpretation. It is bound to be that way.

Senator IVES. As a matter of fact, Mr. Chairman, we have had laws to apply to those things on the statute books of New York, as I said this morning, since 1909 as a starter, and we get along pretty well together in New York. We love each other up in New York.

[Laughter.]

Senator ELLENDER. So do we in the South, but we don't give the colored people a legal right that we don't expect him to exercise. The trouble with New York is that it has been giving the colored people rights to be buried in the same cemeteries as the whites. It gives them the right to swim in the same swimming pools with the white people, but when the poor devils come to exercise that right, you know what happens, don't you?

Senator IVES. No.

Senator ELLENDER. Well, there are a lot of riots, a lot of killings.

Senator IVES. Nothing like that in New York State.

Senator ELLENDER. No? I will bring the record tomorrow as proof, but I don't want to go into that; I don't care to.

Senator IVES. We have learned to live together up there.

Senator ELLENDER. Well, Negroes don't go to any of the best hotels in New York, I know that, or to your big theaters.

Senator IVES. No trouble there now.

Senator ELLENDER. Now, one of the council members answered to this effect, that the general assembly commends the essential purpose of the President's Fair Employment Practice Committee as being in keeping with Christian principles in favor of its receiving legislative sanctions rather than remaining in its present status as an Executive

order. Now, evidently what that answered related to the set-up that was made possible by the late President Roosevelt. Is that true?

Dr. BOYD. I would imagine so. I was not on the staff of the Federal Council at that time.

Senator ELLENDER. Well, are you familiar with the extent to which the FEPC that was created under this Executive order went toward correcting segregation?

Dr. BOYD. In employment, you mean, now?

Senator ELLENDER. How is that?

Dr. BOYD. In employment, you mean?

Senator ELLENDER. No. I mean in the elimination of segregation. For instance, are you familiar with the difficulty that took place at Point Breeze, Md., at the Western Electric Co.? Well, the Western Electric Co. had a factory where it employed both colored and whites and had separate toilets properly marked for each. The FEPC insisted that the designation of colored toilets and white toilets be discarded. It went so far as to force the company to tear down the wall that divided the designated sections, and, of course, when that occurred, an indignation strike took place and lasted for quite some time.

Do you think that this law should go that far in its attempt to correct segregation?

Dr. BOYD. I think this bill, as I have read it, Senator Ellender, and I am not dodging your question—

Senator ELLENDER. I don't want you to dodge it. I am asking you about the past example of its operation.

Dr. BOYD. I will be very honest. I am not familiar, sir, with—

Senator ELLENDER. I am asking your opinion as an individual, because you yourself have said—

Dr. BOYD. I don't believe that would have happened if it had been handled properly by the people who were attempting to comply.

Senator EVES. I think that is the correct answer, and I think that was the difficulty.

Dr. BOYD. I think there were a lot of people. I heard someone say you can mess up any good law by—

Senator ELLENDER. Interfering with local conditions.

Dr. BOYD. I wasn't going to say interfering with local conditions, but the application of the law. There are ways and ways of doing it. I can probably make you terribly mad and you can probably make me terribly mad about something on which we disagree, but there is another approach whereby we can disagree violently but our approach to each other can be on a plane that could preserve such a fellowship.

Senator ELLENDER. I have correctly stated to you the situation at Point Breeze, Md., and you say that it was wrong, then you state that the matter was not handled correctly. Do you mean that the commission should have respected the custom or whatever law was in effect in that State? Would you say that?

Dr. BOYD. I don't know whether I would go that far. I am not a lawyer, by the way. Before I would form a judgment based on what you have said, I will go back to our point that perhaps whoever attempted to comply did not use the wisdom that he might have used.

Senator ELLENDER. What difference does it make to a colored man or a white man if he goes to the toilet where one is marked white, the other colored, if both toilets are the same? Can you tell me that?

Dr. BOYD. Maybe I am stupid. I don't quite get your point.

Senator ELLENDER. I don't think you are stupid. You know what I am driving at. There was a similar case in St. Louis, as I recall, wherein there were four factories that made shells. Three of them were manned by white people and the other was manned entirely by colored. I understand a demand was made that the employees of the four factories should all be mixed and not handled as separate groups. That difference in viewpoint caused another strike. Do you think that it was the proper procedure for the Fair Employment Committee to cause delay in production in order to satisfy the whim of a few colored people who desired to rub elbows with the whites in the factories?

Dr. BOYD. Do I think it was fair for them to do that?

Senator ELLENDER. Yes.

Dr. BOYD. I think an application of that directive, with which I am not too familiar—I think they had a duty to perform; yes.

Senator ELLENDER. So that you believe that this law should go so far as not only to give the same employment and the same wages, but to make it possible for them to associate and rub elbows one with the other?

Dr. BOYD. Senator Ellender—

Senator ELLENDER. Answer the question; it is simple.

Dr. BOYD. Of course, I have declared myself and I am not retracting one bit. I am opposed to segregation of any kind; so I think I have answered that question.

Senator ELLENDER. So that in this law, you would go one step further and in addition to giving the people of all races, be they Jews, or colored, or Italian, the same wages, the same working conditions, and everything else, that if they insist on white and colored working at the same benches and using the same facilities, toilets, and so forth, and so forth, that you also want to make that demand obligatory.

Dr. BOYD. May I say this, sir, that I thought the bill, as the phrase has been used several times today, regards equal economic opportunity. In his presentation this morning, Senator Ives said there are other areas in the field of social relations and education, as you have just mentioned, in labor relations and what have you. The statement that I read was dealing largely with this bill.

Now, if you are asking me personally, I, as just a citizen of these United States, to answer your question, would go further; yes.

Senator ELLENDER. You would go further.

Dr. BOYD. I am not speaking now in the name of the Federal Council.

Senator ELLENDER. The next question I was going to ask you is: Isn't it going to eventually lead to your line of thought or your method under which it should be handled?

Dr. BOYD. I want to be so careful that what I am saying now—

Senator ELLENDER. As an individual.

Dr. BOYD. As an individual, please. I ask your courtesy on that.

Senator ELLENDER. I understand that perfectly, because I don't believe your church will stand for it.

Dr. BOYD. May I cite you one example, sir, Mr. Chairman?

Senator DONNELL. Certainly.

Dr. BOYD. All of my own experience and all of my ministering prior to going to the Federal Council has been in the South, from Virginia to Texas to North Carolina and back to Virginia. I was the rector of my parish in Richmond for 10 years prior to going to

the Federal Council. As president of the local council of social agencies, I invited all of the social workers of the city of Richmond, a professional employed staff, to a service of holy communion in my church to be followed by breakfast. I was told the first year that I did that, that I could not have my Negro brethren come. I submitted to it that first year. The second year I was determined, because my Christian conscience hurt. I sat on boards with my brethren. I have eaten with them in other places, and here I was a Christian minister setting up so-called service for social workers in my church to the exclusion of some of my brethren.

I went to my vestryman first and told him what I was going to do, that if I would have this service first, followed by the breakfast, it would be completely on an unsegregated basis or I would not have it. I then went to the ladies of my church who served breakfast and told them the same thing, that if anyone has any feelings about it, I do not wish you to feel badly about it, that I don't want to embarrass you, but this is the way it is going to be; and from that time on until I left Richmond—that service, I understand, is still being held in Grace and Holy Trinity Church in Richmond, Va., and that is an Episcopal church.

Senator DOXNELL. So, to have our record clear, I first thought you said exactly the opposite of what you mean. I think you used the term "unsegregated." You mean nonsegregated.

Dr. BOYD. Nonsegregated. My point there, Senator Ellender, is that it can be done, and it can be done in the South.

Senator ELLENDER. I don't question that at all, that it can be done among certain classes and will be done in the course of time among certain groups, but you can't force it on all.

Dr. BOYD. No; I wouldn't wish to force it.

Senator ELLENDER. But you are doing it here.

Dr. BOYD. I don't think so.

Senator IVES. Not by this bill.

Senator ELLENDER. This attempt is the first step.

Dr. BOYD. I disagree with you.

Senator ELLENDER. There is no doubt about the intention. I want to say this, that I have observed in various parts of Louisiana a number of people, colored, Chinese, and Japanese—not many, but a few Japanese go into the various churches wherein the white are predominant, but that is on a voluntary basis, you understand. But when it is attempted by law to change a custom that is as old as the section itself, that is when troubles ensue, and that is why I am asking you about this segregation law which, as you know, has been practiced in the South considerably. I imagine that in the course of time, not during my life, but a few years hence, as educational advantages spread, there may be a little relaxing of those issues. However, I fear that advocacy of this bill is the first step in the direction of social equality right here.

Dr. BOYD. I disagree with you, sir.

Senator ELLENDER. Let your little white children play with little Chinese children; let your children and Negro children go to the same schools, theaters, churches. If they don't intermarry within a few years then I don't know the first rudiments of this issue.

Senator IVES. Well, I want to answer that because I happen to live in a fairly small community in up-State New York. That very condi-

tion of human relationships, as far as the social aspect of the thing are concerned, have been going on there for quite a number of years, and there has been no intermarriage.

Senator ELLENDER. How many Negroes have you got down there?

Senator IVES. We have a population of about 9,000, and something like 200 Negroes.

Senator ELLENDER. What would you do about this problem in a section of my State where the proportion is three colored to one white?

Senator IVES. That isn't the point, Senator.

Senator ELLENDER. Yes, it is.

Senator IVES. The point is you can't get along this way without these things you are talking about, and it has been demonstrated in community after community. You have got a different situation that you are referring to.

Senator ELLENDER. You mean we in the South have?

Senator IVES. Yes.

Senator ELLENDER. Certainly, and yet some of my good friends in the Senate want to try and shove this burden off onto us. That is plain to see.

Senator DONNELL. Dr. Boyd, I want to ask you a few questions. Have you studied this particular bill?

Dr. BOYD. I have read it. I haven't studied it.

Senator DONNELL. Are you in favor of the punitive measures of it?

Dr. BOYD. I think if you are going to have any law of this nature, you have got to have some teeth in it, sir, or it is not going to be observed.

Senator DONNELL. Then, as I understand it, you are very doubtful of the advisability of making the teeth apply only in a part of the United States.

Dr. BOYD. I would rather have you and your competent committee and others with you explore that before you take out the teeth, explore it very carefully.

Senator DONNELL. In other words, you think it is a proposition that is worthy of exploration, but, as I understand it, your present personal judgment is opposed to what I may term, without undue facetiousness, the extraction of the teeth in some parts of the country. Is that right?

Dr. BOYD. Yes, sir; that is right.

Senator DONNELL. Have you studied this bill with a view to determining whether the bill authorizes all sorts of lack of segregation? Have you studied it with that in mind?

Dr. BOYD. Not with that in mind, but I wouldn't get that impression. It seems to me it is pretty narrowed down to this one field of equal opportunity in the economic sense.

Senator DONNELL. That is what you are testifying for here, as I understand it, primarily today, though you may personally go further, but what you are testifying to is your belief in the advisability of having equal opportunity for employment.

Dr. BOYD. Absolutely.

Senator DONNELL. Now I want to call your attention to the fact that the bill, it would appear, is at least susceptible to a further construction in section 5, where it recites as follows:

SEC. 5. (a) It shall be an unlawful employment practice for an employer to refuse to hire, to discharge—

and then this other portion—

or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry.

I assume, Doctor, although you are not a lawyer, as you mentioned, that you would agree that "otherwise to discriminate" obviously involves something in addition to the refusal to hire or to discharge.

Dr. Boyd. I would say so.

Senator DONNELL. Therefore, it must refer to other types of discrimination, and the other types would appear to be those relative to terms, conditions, or privileges of employment.

Now the point I am making for our record so that we will not overlook it is not so much to interrogate you on your construction of it as a part of law, but to call attention in our record to the fact that this portion which I have read is at least susceptible to the construction that it refers not only to equality of opportunity in obtaining employment, but to equality of opportunity in all the phases of the terms and conditions of employment, which might be construed to entitle the individuals of whatever race to exact identity of facilities.

Now, of course, I can readily see where it might be construed, as it has been, in connection with the schools in some States not to require identity of facilities, but merely facilities of equal nature and of equal benefit and of equal convenience. But I think there is at least room in the bill as phrased for that ambiguity. I am not asking you to express yourself if you don't care to, Doctor.

Dr. Boyd. No; I would not.

Senator DONNELL. You prefer not to do that. You have read the entire bill. Is that right?

Dr. Boyd. Yes, sir.

Senator DONNELL. Is there anything further you wish to ask, Senator?

Senator ELLENDER. No.

Senator DONNELL. Our next witness is the Reverend Edward Cardinal, director of the Sheil School of Social Studies, Chicago, Ill.

(The following brief was submitted by Dr. Boyd:)

STATEMENT SUBMITTED BY DR. BEVERLEY M. BOYD, EXECUTIVE SECRETARY OF THE DEPARTMENT OF CHRISTIAN SOCIAL RELATIONS, FEDERAL COUNCIL OF THE CHURCHES OF CHRIST IN AMERICA, TO THE SUBCOMMITTEE OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE ON HEARINGS ON SENATE BILL S. 984

Mr. Chairman, my name is Beverley M. Boyd. I am executive secretary of the Department of Christian Social Relations of the Federal Council of the Churches of Christ in America and appear to express its views, as stated in official action by its executive committee and at its biennial meetings.

The Federal Council of the Churches of Christ in America is composed of 25 Protestant denominations with an approximate membership of 27,000,000, all of whose members "share a basic faith in Jesus Christ as Divine Lord and Savior." Such a faith in Jesus Christ prompts these denominations to work together in order "to secure a larger combined influence for the churches of Christ in all matters affecting the moral and social conditions of the people, so as to promote the application of the law of Christ in every relationship of human life."

There are three basic axioms which Christians accept as fundamental to the practice of Christian discipleship. They stem from the life and teachings of the founder of the Christian faith, Jesus Christ. They are as follows:

(a) The Fatherhood of God.

(b) The Brotherhood of Man.

(c) The infinite worth of each individual in the eyes of a Heavenly Father.

Therefore when one brings into the arena of clashing human interests these principles as a guide, he must be prepared to work on many fronts. One of these many fronts is the economic front. The economic front cannot be divorced from the moral and spiritual principles which underlie human relationships. The right to work, we believe, is a divine right. It is not an isolated right. It embodies a moral principle which cuts across the whole of life. Because of this it is clearly related to family life. The economic basis of family life is a major factor in enabling the family to find its full expression in relationship to other families which go to make up society. Therefore, the right to work is important not only to the individual but to the family and is necessarily basic to society as a whole. In this basic relationship there is a moral principle involved. It may briefly be summarized as the right of every individual to work without discrimination because of race, creed, or national origin.

This principle is violated in practice. This violation then becomes a matter of major importance to persons concerned with moral issues. We cannot be indifferent to the well-being of people and continue to call ourselves disciples of the Founder of the Christian faith, Who Himself was interested in everything that affects a man's life.

Believing that fair employment practices is a moral issue, the churches comprising the Federal Council of the Churches of Christ in America, as far back as 1918 put themselves on record in a general statement known as the social ideals of the churches. This general statement was brought up to date in 1932 and still remains basic in the thinking of the churches in regard to social issues. This basic document says in part "We deem it the duty of all Christian people to concern themselves directly with certain practical industrial problems. To us it seems that the churches must stand for equal rights and complete justice for all men in all stations of life." In 1944 at its biennial meeting the Federal Council went on record as follows: We "urge our Government to establish permanent procedures for securing the objectives which have been sought by the Committee on Fair Employment Practices, believing that discrimination in employment because of race, creed or national origin is one of the great moral issues before our Nation today."

In 1944 Dr. Samuel M. Cayert, general secretary of the Federal Council, appeared before the House of Representatives Committee on Labor of the Seventy-eighth Congress to testify in behalf of a bill to prohibit discrimination in employment. He closed his official statement with these words, "Minister Chairman, in summary, I should like to emphasize the fact that there is an awakening conscience in the churches on the whole question of justice for minority peoples in our national life. When we are asking Negroes and other minorities equally with white to fight and die in defense of democracy on the battlefields of the world, we cannot in good conscience be indifferent to any denial of democratic rights in our life at home. And one of the most elementary aspects of interracial justice seems to us to be equal opportunity for all workers to earn their daily bread. That is why there is a widespread support throughout the churches for the objectives sought by the bill which you are now considering."

Again in 1944 a representative of the Federal Council, later its president, Bishop G. Bromley Oxnam, appeared before the Senate Education and Labor Committee which was conducting hearings on a fair employment practices act. Bishop Oxnam said in part that "religion, education, and the law must unite to remove the causes of tension and then forestall petty demagogues who may appeal to prejudice and passion and summon men to the ways of violence."

At a special meeting of the Federal Council of Churches of Christ in America held in Columbus, Ohio, in March 1945, in a statement adopted entitled "The Church and Economic Tensions," we find these sentences, "The Social Ideals of the Churches as previously adopted by the Federal Council constitutes a general statement on these subjects which continues to be of enduring value. Two specific actions are even more significant now than when they were originally adopted."

From this evidence it is clear that the Federal Council of Churches stands firmly behind the moral principle of fair employment practices and believes that it should be enacted into law by the Congress as a basic principle in our economic life.

You will be interested in the action taken by several of the denominational bodies composing the Federal Council.

1. Presbyterian Church, United States of America, general assembly in 1944 issued this statement.

"General assembly commends the essential purpose of the President's Fair Employment Practice Committee as being in keeping with Christian principles, and favor its receiving legislative sanction rather than reminding in its present status as an Executive order."

2. The Northern Baptist Convention met in Atlantic City May 23, 1917, and adopted the following statement:

"Whereas discrimination in employment because of race, creed or national origin is one of the great moral issues before our Nation today, and

"Whereas the right of a worker to be employed and paid solely on the basis of his character and ability is so clear, just, and Christian that it should be protected by appropriate legislation; and

"Whereas this has clearly been recognized in legislation passed recently in New York, New Jersey, Massachusetts, and Connecticut: Therefore, be it

Resolved, That the Northern Baptist Convention urge the enactment of legislation designed to secure these objectives by other State legislatures and their serious consideration by the Congress of the United States."

3. The general council of the Congregational Christian Church met at Gethsemane, Iowa, June 18-25, 1916, adopted the following statement:

"Protection from discrimination in employment.—Discrimination in employment because of race, creed, or national origin is one of the great moral issues before the Nation today. It threatens the basic economic rights of many individuals. We recognize that the immediate postwar period has brought with it increasing tensions between racial and religious groups in our country, and that reduction in employment will tend to work a special hardship on Negro and other minority groups.

"We therefore reaffirm our support of legislation constituting permanent fair employment practices commissions for States and Nation such as will afford all citizens, regardless of race, creed, color, or national origin, equal opportunity to useful, adequately remunerative employment."

4. The General Synod of the Evangelical and Reformed Church met at York, Pa., in 1914 and adopted a resolution which we quote in part:

"Discrimination in employment because of race, creed, or national origin is one of the great moral issues before our Nation today. The right of a worker to be employed and paid solely on the basis of his character and ability is so clear, just, and Christian that it should be protected in law. This right should be safeguarded by appropriate legislative and administrative provisions."

5. The executive committee of the Home Missions Council of North America in 1914 adopted the following resolution:

"The right and opportunity for any worker to be employed without discrimination on account of race, color, creed, or national origin are so just and so in harmony with Christian ethics that all Christian and church agencies have a deep responsibility to stand for that clear Christian and democratic principle. We believe that Government should take such necessary legislative and administrative action as will protect the right to work from any such discrimination."

6. The Woman's Division of Christian Service of the Board of Missions and Church Extension of the Methodist Church at its annual meeting on December 1, 1945, adopted a statement and I understand they are planning to appear at the hearings before this committee.

Therefore I will not quote from their statement.

We stated in the beginning our belief that there is a moral issue involved in fair employment practices. We reaffirm the belief that this moral issue is of deep concern to the Christian forces in this country. Further, our democracy is on trial in the eyes of the world. In this period of economic readjustment from wartime tasks to peacetime pursuits, full and fair employment for all groups is a necessity for a working democracy. The desire of the churches is to prove that democracy will work at the level of economic rights. It will not work unless we enact laws that will open the way for all individuals to be gainfully employed regardless of race, creed, or national origin.

Therefore we urge you to consider making fair employment practices a basic right of all people by enacting it into the law of the United States of America.

**STATEMENT OF REV. EDWARD CARDINAL, C. S. V., DIRECTOR,
SHEIL SCHOOL OF SOCIAL STUDIES, CHICAGO, ILL.**

Senator DONNELL. Will you be kind enough, Father Cardinal, to state your profession and your background, particularly along the line of the study of social problems?

Father CARDINAL. Do you want my background or the bishop's? I am reading this for the bishop.

Senator DONNELL. Are you going to testify for yourself also?

Father CARDINAL. For the bishop and for myself, if you care to.

Senator DONNELL. For which bishop is this being presented?

Father CARDINAL. For Bishop Bernard J. Sheil, the auxiliary bishop of Chicago. He was born in Chicago and served in the diocese of Chicago all his life, and he is the auxiliary bishop of Chicago.

Senator DONNELL. Did he prepare the statement that you are about to read?

Father CARDINAL. He prepared the statement himself.

Senator DONNELL. Personally?

Father CARDINAL. Yes.

Senator DONNELL. How long has he been located in Chicago?

Father CARDINAL. He is 59 years old. So he has been located there 59 years.

Senator DONNELL. He has lived there his entire life?

Father CARDINAL. Yes, sir.

Senator DONNELL. Very well. If you are intending to testify yourself independently, I would like to ask you the same question I asked at the outset.

Father CARDINAL. I am director of the Sheil School of Social Studies, which is a school founded by Bishop Sheil, and the purpose of this school is to promote harmonious relationships between races and religions and economic groups.

Senator DONNELL. Very well, sir. As the testimony proceeds, we may want to ask you some questions in regard to your own experience, but if you will be kind enough to present the bishop's statement, we will be very happy to have it.

Senator ELLENDER. What is the size of the diocese of Bishop Sheil?

Father CARDINAL. He is the auxiliary bishop of Chicago, which is the largest Roman Catholic archdiocese in the world, with all due deference to New York and other places. I think it has more Catholics than any other diocese.

Senator ELLENDER. And you say he established this school in Chicago?

Father CARDINAL. He did, yes.

Senator ELLENDER. What is its attendance?

Father CARDINAL. It is an adult education program and we have on an average of 1,500 people a week who come to various classes that we have.

Senator ELLENDER. How is it maintained?

Father CARDINAL. It is maintained by voluntary contributions.

Senator ELLENDER. How many professors teach there?

Father CARDINAL. We have a faculty of about 35.

Senator ELLENDER. Are they all priests?

Father CARDINAL. No; I would say that we have five priests and the others are lay people.

Senator ELLENDER. Are they all Catholics?

Father CARDINAL. No; they are not.

Senator ELLENDER. How do you select them?

Father CARDINAL. It is my duty, sir, to select the professors. We have in our neighborhood a large number of very fine universities:

University of Chicago, Northwestern, Loyola, De Paul, and I ask these professors part time to come to our institution to give lectures.

Senator ELLENDER. They give that service on a part-time basis, do they?

Father CARDINAL. Yes; without compensation.

Senator ELLENDER. What are the qualifications for entrance?

Father CARDINAL. We have no entrance requirements whatsoever. We try to make our work as pleasant as possible because we feel that education is suffering from too much regimentation. We feel that a large number of people have been deprived of educational opportunities, and so we want to make it as pleasant as possible for them to come in.

Senator ELLENDER. When you say there is too much regimentation, to what field do you have reference?

Father CARDINAL. Well, all fields. By regimentation, I mean that if a man hasn't finished high school, well, he is not entitled to come to the university; he is not entitled to come to college. Well, some men who have been deprived of this opportunity would like to hear lectures on these problems and they don't know just where to turn, so we have this institution and we welcome all people.

Senator ELLENDER. When you refer to regimentation, you mean as to the curriculum in the various colleges, don't you?

Father CARDINAL. That is right.

Senator ELLENDER. And you say there are 1,600 in attendance at a time?

Father CARDINAL. Yes; per week.

Senator ELLENDER. How often do you have lectures; once a week?

Father CARDINAL. Oh, no. We have classes every evening from 5 to 9, and we have about 35 classes functioning, and we have classes all day Saturday.

Senator ELLENDER. At all of these classes, you have a total of 1,600 that attend each day?

Father CARDINAL. That is right—not each day, no; during the course of a week.

Senator DONNELL. You mean 1,600 different individuals attend during the course of a week?

Father CARDINAL. No, Senator. I presume that it would come to about 700 persons who average maybe 2 lectures a week.

Senator DONNELL. In other words, if a man comes to a lecture, he is counted; if he comes to a lecture the next day, he is counted again. So that there are 700 people that avail themselves of the privileges of the Sheil School of Social Science.

Father CARDINAL. Yes.

Senator DONNELL. Is the purpose of that school to train the attendants so that they may become social workers, or is that one of the functions of the school?

Father CARDINAL. We have no professional purposes. That is, we have no accredited courses, but we hope to train them in their thinking and in their human relationships, so that when people do follow some of the courses which we do sponsor, we hope that they will have integrated their minds more happily with reference to other groups.

Senator ELLENDER. How many courses do you teach and what are they?

Father CARDINAL. We have in the neighborhood of 35 courses, primarily in the social sciences, but not exclusively so. We find a large number of people have inhibitions about these problems, and so we operate by indirection. We give other courses in the hope that if they attend these other courses, they will come gradually into the field of social sciences, and we feel as though it has worked very effectively in that fashion. However, if we did work in that fashion, I am afraid that our classes wouldn't be too well attended.

Senator ELLENDER. Have you any kind of catalog or any kind of literature that you send to prospective students indicating what you teach?

Father CARDINAL. Yes; we do.

Senator ELLENDER. Would you mind furnishing the committee with that?

Father CARDINAL. I would be very happy to. I am sorry I don't have it with me.

Senator ELLENDER. I wish you would send it to the secretary, Mr. Rodgers.

Father CARDINAL. I would be very happy. We issue a catalog regularly and we have quite a large mailing list.

Senator ELLENDER. I presume that each subject is designated and what is taught under that subject you likewise outline in your catalog.

Father CARDINAL. Yes.

Senator ELLENDER. Is it open to all?

Father CARDINAL. All people; yes. We say that specifically. The bishop has, as I think you probably know, instituted a Catholic youth organization, and we have colored people in our classes. We have colored professors.

Senator ELLENDER. They teach at the university?

Father CARDINAL. Yes. It is not a university, it is a school.

Senator ELLENDER. I mean they teach at the other universities?

Father CARDINAL. Yes; but they may be newspapermen. We depend very largely on newspaper men because we have found that they contribute a very, very fine service.

Senator ELLENDER. Do these colored teachers come from colored universities or where do they come from?

Father CARDINAL. We don't have, as far as I know, a colored university in Chicago.

Senator ELLENDER. Where do they teach; do you know?

Father CARDINAL. Loyola University, University of Chicago; some belong to the Urban League.

Senator ELLENDER. How do you select the teachers for the lecture?

Father CARDINAL. I have a committee that meets with me, and of course this committee has its eye open toward the activities of these people in the city, and in that way we become acquainted with those who, as we say, have a liberal attitude on the social questions, and we ask them if they would be willing to contribute their services to teaching these students that do come to the school.

Senator ELLENDER. Do you have all denominations pretty well represented?

Father CARDINAL. I made a statistical survey this year, and of course, we don't ask people too many questions, because it probably will keep people away from the school, but we pass the survey on to

these students and ask them not to sign it, and one of the questions we ask is how many were Catholics and how many Protestants, and 95 percent of them were people of our own church.

Senator ELLENDER. Catholic.

Father CARDINAL. Yes. There were some Protestants there.

Senator ELLENDER. Did you have some Jews there?

Father CARDINAL. We had some Jews there; yes.

Senator ELLENDER. What percentage of them are colored?

Father CARDINAL. I would say about 5 percent. It is predominantly Roman Catholic.

Senator ELLENDER. How long has that school been in existence?

Father CARDINAL. Bishop Sheil instituted the school 4 years ago.

Senator ELLENDER. Would you say that was an outgrowth of the war because of the method in which there was discrimination among the employers?

Father CARDINAL. No, I don't think so, Senator. If you knew Bishop Sheil, I think the answer would be obvious, that it was because of his Christlike personality, that he saw that in the city of Chicago there was so much discrimination, so much prejudice and bigotry, that he felt that an institution of this kind, which really has no counterpart, I believe, in any part of the United States, would be fulfilling a great service to the community.

Senator ELLENDER. Well now, prejudice and bigotry of what?

Father CARDINAL. Of employment. We have it in our records, as the bishop says in the statement here.

Senator ELLENDER. I don't want to anticipate you, Father. Suppose you read, if you have that in your statement, I am sorry.

Senator DONNELL. Your testimony has been very interesting, Father, and I wanted to ask just one or two questions. The primary purpose of the school is to instill what you consider liberal principles into the students. Is that your thought?

Father CARDINAL. Yes, of course. I mean by liberal, good American principles.

Senator DONNELL. I understood you to use the term "liberal." That was about to lead me to inquire whether you were contrasting liberal with conservative or just what is the meaning of liberal as you have used it in your testimony?

Father CARDINAL. I mean by liberal, of course, a person who seems to embody in his thinking and in his actions the principles in the Declaration of Independence and the Constitution and in the American way of life generally.

Senator DONNELL. Some people feel that following the Constitution is conservative these days, but you believe in following the Constitution of the United States and you advocate that to the students. Is that right?

Father CARDINAL. Yes. We feel as though the Constitution isn't being lived 100 percent. There is a gap. We feel as though we would like to bridge over this gap between the principles not only of the Constitution, but between the principles of religion and the living in the religion and the principles of the Constitution and the actual application of it. There is a gap there.

Senator DONNELL. You mentioned the prevailing prejudice and bigotry: I am not sure whether you used the term "discrimination."

but was it the existence of what the bishop deemed to be that which led to the establishment of the school?

Father CARDINAL. That would be the negative reason. The positive reason, of course, would be the embodiment of high social principles among the people.

Senator DONNELL. But the advisability of embodying those principles was accentuated in the bishop's mind by what he found to be existing bigotries and prejudices and discrimination. Is that right?

Father CARDINAL. That is right.

Senator DONNELL. Does your school teach a course in which such types of legislation as this is advocated?

Father CARDINAL. Yes. We have courses in race relationships. We have courses on economic problems and social relationships.

Senator DONNELL. Now on the race relationships, do your courses confine themselves to the imparting of factual material or do your courses go further and advocate to the students the advisability of legislation such as the fair employment practices legislation?

Father CARDINAL. I am quite confident that our staff would be 100 percent in favor of legislation of this kind because they have been in favor of similar legislation, and I feel quite confident that they would be in favor of this type of legislation.

Senator DONNELL. And have they advocated this type of legislation in the courses of study given to the students?

Father CARDINAL. Consistently.

Senator DONNELL. And over a period of about 4 years? Is that right?

Father CARDINAL. That is right.

Senator DONNELL. In approximately how many of the courses in the school is it true that legislation of the type of S. 984 is advocated by the teachers to the pupils?

Father CARDINAL. In how many courses?

Senator DONNELL. Yes.

Father CARDINAL. Monday evening is dedicated exclusively to a discussion of labor problems.

Senator DONNELL. And in those labor problems, this matter of fair employment is one of the problems that is taken up and discussed. Is that right?

Father CARDINAL. Yes.

Senator DONNELL. And is it true that in the discussion of those labor problems your faculty endeavors to impart to the students the view favorable to the enactment of legislation such as in this bill now before us, S. 984?

Father CARDINAL. Our faculty, of course, as all good faculties, should try to keep themselves as objective as possible, but I think I can speak for them when I say that they would be very much in favor of sponsoring this kind of thing, and I know they do.

Senator DONNELL. And you think they do impart or attempt to impart that view to the pupils? Is that right?

Father CARDINAL. Yes. On Friday evening we have a forum, and we invite people such as Paul Douglas and other distinguished men from the city to give lectures on these problems.

Senator DONNELL. Do you have in mind any of the other distinguished guests that you have had from time to time to deliver those lectures?

Father CARDINAL. Well, we had from Washington here Father Higgins, who is connected with the National Catholic Welfare Council, and we have had Father Gilligan from Minneapolis, who is presently working for the FEPC bill in Minnesota.

Senator DONNELL. Was Mr. Paul Robeson one of the lecturers that spoke?

Father CARDINAL. No.

Senator DONNELL. I understood he had been in Chicago and I wondered whether he had spoken to your organization.

Father CARDINAL. No.

Senator DONNELL. Did he speak to a large audience there in Chicago, do you know?

Father CARDINAL. Mr. Robeson?

Senator DONNELL. Yes.

Father CARDINAL. I don't know, Senator, just how many people he spoke to.

Senator DONNELL. At any rate, he did not speak in your institution.

Father CARDINAL. No.

Senator DONNELL. Now, Reverend Cardinal, does the bishop personally participate in the lectures and forums?

Father CARDINAL. Yes; he does. He is invited to give a lecture occasionally to the forums and he actually participates in them.

Senator ELLENDER. Father, have you had occasion to interview any of the employers who were accused of discrimination in employing people?

Father CARDINAL. Yes; I have.

Senator ELLENDER. On how many occasions, would you say?

Father CARDINAL. I would say in the neighborhood of a hundred.

Senator ELLENDER. Did you say you contacted the employer?

Father CARDINAL. Yes.

Senator ELLENDER. Well, out of the 100 cases that you have knowledge of, what was the reason for the discrimination?

Father CARDINAL. Well, in these cases, it was religious discrimination.

Senator ELLENDER. What percentage of them do you think were based on religious discrimination?

Father CARDINAL. A large percentage of them was due, I suppose, to the pattern of the neighborhood, in cases I know of, being predominantly a non-Catholic neighborhood.

Senator ELLENDER. Protestant?

Father CARDINAL. Yes. They felt as though it would be upsetting the social pattern too violently to invite people from other churches.

Senator ELLENDER. But don't you think that the establishment of this school to which you have referred a moment ago will go far toward correcting some of those evils, rather than doing it in a legal manner as is proposed in the pending measure?

Father CARDINAL. Well, of course, I believe that; otherwise we wouldn't function as a school; but I wouldn't want to leave the impression that this in any sense is an answer to the problem.

Senator ELLENDER. When you say this, you mean—

Father CARDINAL. The school or any educational institution. I have been an educator all my life and I have heard the testimony this morning. I don't think we can rely on educational institutions,

as long as we have quota systems in our universities and colleges, and we do have the quota system.

Senator ELLENDER. Well, isn't that due to the fact that you are limited in space and facilities?

Father CARDINAL. I wish that were true but, unfortunately, it is not.

Senator ELLENDER. You say the quota system? How is that practiced?

Father CARDINAL. In some of our colleges and universities, they will take, say, maybe 10 percent of the students that may be Jewish or 10 percent Roman Catholic or something of that kind. That is true in some of the professional schools and some of the other schools. University officials will deny it if you confront them with this evidence.

Senator ELLENDER. You would want to lay admission open to whoever comes first and qualifies.

Father CARDINAL. If it is a public institution, I think it must be allowed to function as a public institution. All people are entitled to these things; it is their right, and I don't think a university has the right to put a quota system in if it is a public university.

Senator ELLENDER. Do you know of any private institutions following that pattern?

Father CARDINAL. That have a quota system?

Senator ELLENDER. Yes.

Father CARDINAL. Yes; I do. I wouldn't be so severe on them for the reason that these private institutions are set up for certain groups.

Senator ELLENDER. You believe that public institutions have a quota system. What is their authority for establishing the quota system, do you know?

Father CARDINAL. It is custom and prejudice. I suppose they want to maintain a certain kind of a student pattern, and so they establish a quota system for that reason. The talk I hear among educators is, "Well, if we allow too many Jews to enter this institution, the whole institution will become Jewish. We don't want it."

Senator ELLENDER. I hear that down South, too. We have that in our own universities down there, but I don't know that that is practiced in any public institution in my own State. I do hear rumblings of it now and then. As a matter of fact, since I have been here in the Senate, I have received letters from many Jews asking that I intercede with some of the schools in my State to permit them entry, and I don't know that a quota is established, but I grant you that the situation as respects Jews is correct. I have heard that right along that the quota system is established in a measure not to keep them out, but to curtail them for fear that, as you say, they might all go to professions and a number of others would be denied access to the colleges to learn medicine and law and the like.

Father CARDINAL. I am not justifying that.

Senator ELLENDER. I am not either, but I am just telling you of my knowledge of the quota system as practiced in private schools. I knew that existed, but I am surprised that it has existed in public institutions, and I am wondering what the authority is for it.

Father CARDINAL. We had a seminar on that very problem last year in Chicago on the quota systems in our colleges and universities, and it is amazing to find that educational institutions, of course, do practice that so generally. That is why I don't think that we can

count too much on educational institutions to give us the kind of leadership which we need for this kind of work. It has to be implemented with legislation.

Senator ELLENDER. Have you made a study of the quota system to determine whether or not any particular group, be it Jews or Protestant or Catholic, are receiving a larger quota than their population bears to the entire population of the country?

Father CARDINAL. I never made any study, but I would almost be willing to swear—

Senator ELLENDER. I wouldn't ask you to do that. [Laughter.]

Father CARDINAL. For instance, in some States, the quota is far below the population bloc of that group in that city or State.

Senator ELLENDER. When you say "group," do you mean religious group?

Father CARDINAL. Yes; religious group.

Senator DONNELL. Proceed with your statement, Father.

Father CARDINAL. This is the statement of Bishop Sheil:

The present debate around the question of fair employment practices has been unfortunately and probably deliberately confused. The issues underlying this essential legislation are far clearer than many of its opponents would have us believe.

Senator DONNELL. Father, would you pardon the interruption. Is the bishop speaking of this particular bill, S. 984?

Father CARDINAL. Yes; he is. He gave me a copy of this bill.

Senator DONNELL. So then he is referring to this particular bill and is familiar with its contents.

Father CARDINAL. Yes. The issue is simply one of economic rights. Such legislation merely guarantees that when men seek a job, or deserve higher pay, or merit promotion, their applications will be judged solely on qualifications, not on the basis of race, color, or national origin. It is false to speak of such legislation as interference in business; it is the Government's business to eliminate injustice in any field at any time.

A fair employment practice law is an attempt to make the equality of man more than a phrase in the Declaration of Independence. It would give legal recognition to that God-given dignity which every human being possesses. If we are truly Christian, we cannot preach one thing and practice another. If we are truly democratic, we cannot speak of equality and then deny it to millions of our fellow citizens.

We constantly and proudly repeat that all men are created equal, with equal rights to life, liberty, and the pursuit of happiness. But, no matter how often we pronounce our devotion to these ideals, they will mean little, unless we implement them by effective action so that they will be fruitful realities for everyone in every sphere.

The people who will benefit by fair employment practices plead only for their rights as American citizens. They ask only for the opportunity to better themselves economically on the basis of ability rather than on the color of their skin or the form of their worship. America is still a long way from giving justice to countless Americans. This law will be an important and long-delayed step in guaranteeing justice in the economic sphere. No one can reasonably oppose this.

In expressing my opinions concerning the fair employment practices

legislation, I am representing the position of my church. The Roman Catholic Church in the United States, through its official body, the National Catholic Welfare Conference, has spoken unequivocally in favor of fair employment practices legislation.

In July 1946 the social action department of the National Catholic Welfare Conference issued a statement, which reads in part:

Christian moral teaching requires every employer to maintain and enforce non-discriminatory policies in hiring, upgrading, and discharge. In addition, it requires each employer not only to cease opposition to the enactment of Federal and State FEPC laws, but to use his influence in his association and with his fellow employers to secure the passage and assist in the enforcement of such statutes.

Senator ELLENDER. Will you state for the record what the National Catholic Welfare Conference is?

Father CARDINAL. Yes.

Senator ELLENDER. What is its membership; how it is maintained; how often it meets?

Father CARDINAL. The bishops of the United States meet once a year in November, and this is the executive committee of the bishops, and this National Catholic Welfare group are appointed by the bishops.

Senator DONNELL. That is the group of which Father McManus is quite an outstanding member.

Father CARDINAL. He represents the educational features; yes. This is the executive committee of bishops and it functions in different fields. They have a committee on education, committee on social matters, and so forth.

Senator ELLENDER. Do they have representation from all over the country?

Father CARDINAL. No. Their headquarters are here in the city.

Senator ELLENDER. I know; but is the conference composed of bishops from all over the country?

Father CARDINAL. Oh, yes. The constituents are from different parts of the United States.

Senator ELLENDER. How many Catholics does that represent?

Father CARDINAL. Well, in the field of statistics, of course, we always get into argument, but I think there are 23,000,000 Catholics in the United States.

Senator ELLENDER. Does this conference represent all of the Catholics in the United States?

Father CARDINAL. All the Roman Catholics.

Senator DONNELL. Father, that doesn't mean that all the members of the church necessarily share these views. Each man or woman has a right to his or her own individual views; is that right?

Father CARDINAL. That is true. Bishop Sheil is speaking for Bishop Sheil; no one else.

Senator ELLENDER. And Archbishop Rummel speaks for himself in the South.

Father CARDINAL. That is right.

Senator ELLENDER. Is there a vote taken? For instance, you have read a statement just now. Does that represent the majority view of that conference or is it the view of a few?

Father CARDINAL. This represents the view of the few, of the executive committee of the bishops.

Senator ELLENDER. And that is composed of how many people?

Father CARDINAL. Fifteen.

Senator ELLENDER. How are they selected?

Father CARDINAL. By the bishops themselves.

Senator ELLENDER. Are they chosen from all over the country?

Father CARDINAL. Yes. Usually they try to have each geographical area represented.

Senator DONNELL. Was this particular action unanimous, Father, do you know, or was it a majority?

Father CARDINAL. No; it wasn't. I am not speaking now, I want to make it clear, for the bishops of the United States. I haven't been authorized to come here and speak for the bishops.

Senator ELLENDER. What you have read from just now—that is, I suppose, what Senator Donnell had in mind—was that a unanimous view of the 15 bishops?

Father CARDINAL. No, it wasn't. Of course, it was a view which was presented on the 1946 question, not this present bill.

Senator ELLENDER. Do you know what the vote was on that statement?

Father CARDINAL. Well, it wasn't a complete assent.

Senator ELLENDER. I see. Do you know what percentage agreed to it and what percentage did not?

Father CARDINAL. It was a majority vote.

Senator DONNELL. Do you mean it was just a majority or was it considerably more than just a majority? In other words, Do you know how many of the 15 members voted for it?

Father CARDINAL. I don't know the exact number, no; but the fact that the National Catholic Welfare Conference issued a statement indicates that it was the predominant view of the majority group. I don't think it would be possible to get a copy of the vote taken.

Senator DONNELL. Proceed, Father.

Father CARDINAL. The first national director of FEPC is today a bishop of the Roman Catholic Church. That is Bishop Haas. Bishop Haas was appointed by President Roosevelt.

Senator ELLENDER. Where is he from?

Father CARDINAL. He was a professor in Catholic University here in the city.

Senator ELLENDER. How long did he serve?

Father CARDINAL. Possibly 2 years. Then he was appointed bishop of Grand Rapids, Mich. It is unfortunate indeed that Bishop Haas isn't here to testify. It would be eminently worth while to have his testimony because of his experience with the FEPC bill here in Washington.

Senator DONNELL. Am I to understand that he was the first chairman of that Commission?

Father CARDINAL. Yes.

Senator DONNELL. I thought that is what you said.

Father CARDINAL. I am proud of the fact that my fellow members of the Catholic hierarchy are outspokenly active on behalf of fair employment practices legislation. In view of the unmistakable Catholic support for such legislation the charge of Communist inspiration is ridiculous.

As a bishop of the Catholic Church, my prime concern is leading men to God. We all know only too well how difficult it is to live in accord with the voice of conscience. The church knows very well that it is difficult at best to preach justice and charity and purity to men who are subjected to an endless round of frustrations.

The path of eternal salvation is not easy; but how much more difficult is the way of those disenfranchised citizens whose struggle for salvation must be made against almost insuperable obstacles? As a member of a minority group, I have come face to face with the ugly specter of bigotry and discrimination. Over the course of years the Catholic Youth Organization has received innumerable reports from Catholics and others of job discrimination based solely on the fact that the applicant belonged to a certain religion, race, or national group.

Such economic discrimination is immoral; it is clearly sinful. How long are we expected to sit by while these children of God find their paths blocked at every point by the forces of bigotry and discrimination?

Senator ELLENDER. Did he classify himself as being in a minority group?

Father CARDINAL. Yes.

Senator ELLENDER. With 23,000,000?

Father CARDINAL. Yes; I think it is still a minority in a country where the population is 140,000,000.

Senator DONNELL. Is there any other church organization in the United States as large as that 23,000,000? I mean any denomination?

Father CARDINAL. It is very difficult answering that because, you see, the Protestants number, I suppose, much more than that. You take all the Protestants together. There are no one Protestant group that numbers that. You have heard the testimony of the gentleman preceding me who said the Methodists number 8,000,000, and so forth. If you add all these numbers, they far outnumber us.

Senator ELLENDER. Well, according to that definition or idea of view of a minority, why, you have no majority groups in the country, then; it is all minority. Is that true?

Father CARDINAL. The Protestants claim to be a majority group. That claim has been made time and time again.

Senator ELLENDER. Well, with combinations, they certainly are the majority of the people in the country. But I certainly can't visualize the Catholics being classed a minority group.

Father CARDINAL. Well, statistically—

Senator ELLENDER. Well, statistically or otherwise.

Senator DONNELL. May I read into the record this information which the clerk of the committee, Mr. Rodgers, has handed to me:

Bishop Haas was asked to appear but could not come, the reason being prior appointments at commencement exercises at various Catholic schools throughout the country.

I am sure we would be very happy to have the bishop here if he could still come. I can assure you that we would be very glad to make a place for him on the program.

Father CARDINAL. Thank you very much. May I continue?

Senator DONNELL. Certainly.

Father CARDINAL. We Americans cannot afford discrimination of any kind. There is no place for it in our way of life.

Senator DONNELL. Pardon me, Father. I take it you are using the word "minority" there not in the sense that the Catholic Church is a very small minute portion of the population, but that it does not contain an absolute majority of all the people of our country, and that is all you mean by the term "minority group," is it not?

Father CARDINAL. Yes.

Senator DONNELL. In other words, say we have 140,000,000. There would have to be seventy million and one in order to be a majority, and the Catholic organization is approximately a third of that amount. Is that right?

Father CARDINAL. It is not a third. It is about a fifth.

Senator DONNELL. Didn't you say 24,000,000?

Father CARDINAL. Twenty-three million out of one hundred and forty million would be a fifth, would it not?

Senator DONNELL. Well, a little less than that, about a sixth, between a sixth and a seventh, yes; but I was referring to the fact that it is somewhere in the neighborhood of a third of a majority. That is about what it is as I have roughly figured it in my head.

Father CARDINAL. Of course, I think if you look at the history of this whole thing, you would find that at one time we were a much smaller group, and when we were smaller, we suffered more than we do now.

Senator ELLENDER. But the population of our country was much smaller, too.

Father CARDINAL. Proportionately we were much smaller than that.

Senator ELLENDER. But your percentage of the entire population has been rather equal or on a constant basis, has it not?

Father CARDINAL. I think so.

Senator DONNELL. Proceed, Father.

Father CARDINAL. There is no place for it in our way of life. And there is little time for legal disputes, when rampant injustice makes a mockery of the purpose of our Government: "To promote the general welfare." And, most certainly, there is no place in these august halls for the petty princes of privilege, the sleazy hirelings of unscrupulous pressure groups who by their threats and promises attempt to influence the votes of our legislators against fair employment laws. This despicable crowd with all its loathsome baggage should, like the money-changers in the temple, be driven from your midst.

Senator DONNELL. Do you know to whom the bishop is referring there, Father? Do you have any knowledge of that?

Father CARDINAL. Well, no. I don't know.

Senator DONNELL. I am saying this in all frankness. I don't know to whom he is referring. I have no knowledge of that, and I thought if you were informed, we would like to have that information.

Father CARDINAL. I am sorry the bishop isn't here to explain his own statement.

Senator DONNELL. And you do not know what he means by this, to what particular group it is that he refers?

Father CARDINAL. I suppose those who might be termed the peddlers of prejudice.

Senator ELLENDER. Do you think that whoever opposes that viewpoint are peddlers of prejudice?

Father CARDINAL. Well, I think in the over-all record, we could stigmatize them as such. We have a book written by Gustaf Meyers, *A Story of Bigotry in the United States*; it is 500 pages long. Mr. Meyers made a very, very searching analysis of this problem in the United States and he found an amazing amount of prejudice, and, of course, this has been disseminated by individuals, Ku Klux Klan and other similar organizations—this group that is functioning in Georgia just recently. We have had too many organizations of this kind, and I suppose that it is to these people that the bishop refers.

Senator ELLENDER. Well, as a matter of fact, we have a lot of Catholics who are somewhat bigoted in their own religion, aren't they? They believe their own religion is the only true religion.

Father CARDINAL. Yes; but I wouldn't call that bigotry any more than I would in saying that two and two makes four. I don't know if that has anything to do with the question, but when I say I am quite sure of the validity of my own religion and when a Catholic is sure of his religion, I hardly subscribe to the statement that that is bigotry because he has a firmness of conscience that his is the right religion.

Senator SMITH. As long as you permit another fellow to have the same conviction that his religion is right, you don't object to that.

Father CARDINAL. Well, I distinguish between toleration and tolerance. I can no more agree with the Protestant who says that his religion is right than I can agree with a mathematician who says that two and two make five, but I tolerate the Protestant for believing in that, but I can't tolerate him saying, and I use the word "tolerate" in the broad sense, that his religion is right. I couldn't hold the two propositions. I couldn't hold that my religion is right and—

Senator SMITH. Not that he is right, but he has a right to his own opinion and own judgment without being burned at the stake. That is approximately correct, isn't it?

Father CARDINAL. Yes.

Senator ELLENDER. Father, what I had in mind was bigotry among either Protestants or Catholics. Each has so much belief in his own religion that he feels that the fellow who belongs to the other religion, goes to Hades when he dies. Is that true? Where religion is so deeply ingrained belief is eminent, and yet you wouldn't call that being bigoted.

Father CARDINAL. Well, you would have to define bigotry.

Senator ELLENDER. You mentioned it a while ago. That is why I am raising the question.

Father CARDINAL. There is only one Judge and He is the one that has the job of assigning people to the various parkings of the next world. [Laughter.]

Senator DONNELL. Proceed, Father.

Father CARDINAL. It is the solemn duty of our legislators to consider first the true issues involved in fair employment practices. In so doing, each of them will realize that the human issues, the denial of full citizenship to millions of our people, far outweigh the selfish interests of pressure groups. I hope this bill will become law with the greatest possible speed.

Senator ELLENDER. Father, I wanted to pursue a line of questions that I started a moment ago. I asked you whether or not you had personal knowledge of cases in which there was discrimination practiced in Chicago, or wherever it was.

Father CARDINAL. In the State of Illinois.

Senator ELLENDER. And you said you had knowledge of at least 100, that you interviewed the employers and that the preponderance of the number you investigated was because of religious belief. Now did you question the employers and find out why it was that they entertained that belief?

Father CARDINAL. Yes; and the answers given were pretty much along the same pattern. It was to maintain harmony among the employees.

Senator ELLENDER. You mean their other employees.

Father CARDINAL. Yes.

Senator ELLENDER. Well, were you able to find out what denominations the employees belonged to? Were they different from Catholics?

Father CARDINAL. Usually there were groups of which the employer and employees were of the same church and consequently, they thought, "Well, since this is the pattern, we had better not upset this pattern."

Senator ELLENDER. But does that same situation exist now in Chicago, in the State of Illinois?

Father CARDINAL. In Illinois, yes; but not so much in the city. It is more in the country places.

Senator ELLENDER. Where the Protestants were, for instance, the Catholics wouldn't be employed, and, vice versa, where the Catholics were, the Protestants wouldn't be employed. Is that correct?

Father CARDINAL. Yes. When I was chaplain at the University of Illinois for the Catholic students, I had a large group of young ladies who came to me who had received their degrees from the university and who applied for teaching jobs in various schools in the State. In the applications, they would be asked what is your color, your religion, and so forth, and when they answered, "I am a Roman Catholic," why, they said, "We are sorry. We don't hire Roman Catholics."

Senator ELLENDER. Of course, you realize that this bill will not correct that evil.

Father CARDINAL. Well, I think it will start.

Senator ELLENDER. How?

Father CARDINAL. First it will act as an educational agency in bringing out to the minds of people the evils of this kind of thing. Sometimes the attention of the evil is stressed by the Government of the United States. When people realize that there is a penalty attached to the thing, the evil of their act is forcibly brought up to their mind.

Senator ELLENDER. But the penalty will not apply to the people to whom you refer.

Father CARDINAL. I know, but they would be influenced by the general atmosphere. I realize this has nothing to do with educational institutions.

Senator ELLENDER. Well now, was this discrimination practiced in public schools or private schools or both?

Father CARDINAL. Public schools.

Senator ELLENDER. And that action was evidently taken by the school boards.

Father CARDINAL. Yes. In some school boards, they would divide the membership between two groups, a three-and-three relationship.

Senator ELLENDER. Do you know of any group in Illinois wherein the Catholics were predominant and they refused to employ Protestants?

Father CARDINAL. No; I don't. Of course, in our private schools, where we have our own faculties, we do employ a Protestant at times, but the general pattern is to employ Catholics.

Senator ELLENDER. What kind is that private school?

Father CARDINAL. Our own parochial schools, for instance.

Senator ELLENDER. How many such schools do you have in Illinois?

Father CARDINAL. You mean private Catholic schools?

Senator ELLENDER. Yes.

Father CARDINAL. Four hundred and fifty.

Senator ELLENDER. Do you know of any who employ a Protestant to teach?

Father CARDINAL. Yes; large numbers.

Senator ELLENDER. To what extent?

Father CARDINAL. I was dean of the Catholic College in Illinois and I remember one time we had in the school of commerce four out of five people who were Protestants, and one was a Mormon.

Senator ELLENDER. Out of how many?

Father CARDINAL. Four out of five. It happened to be in a field where there wasn't opportunity for a philosophy of life to be presented.

Senator ELLENDER. Now of the cases that you mentioned, will you tell us something about the cases where employers who were engaged in manufacturing turned down applicants because of their religion?

Father CARDINAL. Well, it is quite well known in Chicago that on State Street, employers are very, very slow to hire colored people. That is probably the great outstanding prejudice in the city, the State Street merchants who refuse to hire colored people as clerks.

Senator ELLENDER. Did you interrogate them?

Father CARDINAL. You mean the employers?

Senator ELLENDER. Yes.

Father CARDINAL. No; I did not.

Senator ELLENDER. You simply heard. Was that in department stores?

Father CARDINAL. Yes. Many of these people came to our organization because they know what we represent so that we would be aware of this discrimination.

Senator DONNELL. That is, they know you represent a view favorable to the abolition of discrimination to which you refer.

Father CARDINAL. Yes.

Senator ELLENDER. Did you have occasion to investigate the attitude of employers in the manufacturing line wherein discrimination took place not only as to religion, but as to color, creed, and so forth?

Father CARDINAL. I don't recall from memory any such discrimination in manufacturing. This was mostly retail.

Senator ELLENDER. Well, the interviews with the employers had to do with the religious aspect and—

Father CARDINAL. And racial aspect. I would say on State Street, the racial issue was more predominant than the religious issue.

Senator ELLENDER. That is all the questions I have, Senator.

Senator DONNELL. Have you any questions, Senator?

Senator SMITH. No, sir.

Senator DONNEL. Thank you very much, Father, for your testimony.

Our next witness is Mr. A. Philip Randolph, cochairman, National Council for a Permanent FEPC.

Mr. Randolph, will you please state your full name, your address, your present occupation, and something of your background, particularly bearing on the matter of social studies and your knowledge of the problems relating to fair employment?

(Father Cardinal submitted the following brief:)

STATEMENT OF BISHOP BERNARD SHELL, AUXILIARY OF CHICAGO

(Read by E. V. Cardinal)

The present debate around the question of fair employment practices has been unfortunately and probably deliberately confused. The issues underlying this essential legislation are far clearer than many of its opponents would have us believe. The issue is simply one of economic rights. Such legislation merely guarantees that when men seek a job, or deserve higher pay, or merit promotion, their applications will be judged solely on qualifications, not on the basis of race, color, or national origin. It is false to speak of such legislation as interference in business; it is the Government's business to eliminate injustice in any field at any time.

A fair employment practice law is an attempt to make the equality of man more than a phrase in the Declaration of Independence. It would give legal recognition to that God-given dignity which every human being possesses. If we are truly Christian we cannot preach one thing and practice another. If we are truly democratic we cannot speak of "equality" and then deny it to millions of our fellow citizens. We constantly and proudly repeat that all men are created equal, with equal rights to life, liberty, and the pursuit of happiness. But, no matter how often we pronounce our devotion to these ideals, they will mean little unless we implement them by effective action so that they will be fruitful realities for everyone in every sphere.

The people who will benefit by fair employment practices plead only for their rights as American citizens. They ask only for the opportunity to better themselves economically on the basis of ability rather than on the color of their skin or the form of their worship. America is still a long way from giving justice to countless Americans. This law will be an important and long-delayed step in guaranteeing justice in the economic sphere. No one can reasonably oppose this.

In expressing my opinions concerning the fair employment practices legislation, I am representing the position of my church. The Roman Catholic Church in the United States, through its official body, the National Catholic Welfare Conference, has spoken unequivocally in favor of fair employment practices legislation. In July 1946 the social action department of the National Catholic Welfare Conference issued a statement which reads in part: "Christian moral teaching requires every employer to maintain and enforce nondiscriminatory policies in hiring, upgrading, and discharge. In addition, it requires each employer not only to cease opposition to the enactment of Federal and State FEPC laws, but to use his influence in his association and with his fellow employers to secure the passage and assist in the enforcement of such statutes."

The first national director of FEPC is today a bishop of the Roman Catholic Church. I am proud of the fact that my fellow members of the Catholic hierarchy are outspokenly active on behalf of fair employment practices legislation. In view of the unmistakable Catholic support for such legislation the charge of Communist inspiration is ridiculous.

As a bishop of the Catholic Church, my prime concern is leading men to God. We all know only too well how difficult it is to live in accord with the voice of conscience. The church knows very well that it is difficult at best to preach justice and charity and purity to men who are subjected to an endless round of frustrations. The path of eternal salvation is not easy; but how much more difficult is the way of these disenfranchised citizens whose struggle for salvation must be made against almost insuperable obstacles? As a member of a minority group, I have come face to face with the ugly specter of bigotry and discrimination. Over the course of years, the Catholic youth organization has received

innumerable reports from Catholics and others of job discrimination based solely on the fact that the applicant belonged to a certain religion, race, or national group. Such economical discrimination is immoral; it is clearly sinful. How long are we expected to sit by while these children of God find their paths blocked at every point by the forces of bigotry and discrimination?

We Americans cannot afford discrimination of any kind. There is no place for it in our way of life. And there is little time for legal disputes, when rampant injustice makes a mockery of the purpose of our Government: "To promote the general welfare." And, most certainly, there is no place in these august halls for the petty prizes of privilege, the sleazy hirelings of unscrupulous pressure groups who by their threats and promises attempt to influence the votes of our legislators against fair-employment laws. This despicable crowd with all its lathsome baggage should, like the money changers in the temple, be driven from your midst.

It is the solemn duty of our legislators to consider first the true issues involved in fair-employment practices. In so doing, each of them will realize that the human issues, the denial of full citizenship to millions of our people, far outweigh the selfish interests of pressure groups. I hope this bill will become law with the greatest possible speed.

STATEMENT OF A. PHILIP RANDOLPH, COCHAIRMAN, NATIONAL COUNCIL FOR A PERMANENT FEPC, WASHINGTON, D. C.

MR. RANDOLPH. I am A. Philip Randolph, cochairman of the National Council for a Permanent FEPC and international president of the Brotherhood of Sleeping Car Porters. I was a member of the mayor's committee under the administration of Mayor LaGuardia, a committee for the purpose of investigating social and racial conditions in New York. That was in his first term, and I have devoted considerable time to the study of general social and racial problems.

SENATOR DONNELL. What is the National Council for a Permanent FEPC?

MR. RANDOLPH. The National Council for a Permanent FEPC is a group of cooperating organizations that are committed to the plan to secure the enactment of fair employment practice legislation and specifically the bills that are now before the Senate and the House.

SENATOR DONNELL. How many such cooperating organizations constitute the group?

MR. RANDOLPH. Fifty or more.

SENATOR DONNELL. Could you tell us a few of the best known of those organizations?

MR. RANDOLPH. Yes. There is the American Federation of Labor; the Congress of Industrial Organization; the B'nai B'rith; National Association for the Advancement of Colored People; National Urban League; the American Jewish Committee; the Alpha Kappa Alpha Sorority; Catholic Interracial Council; Common Council for American Unity; Congregational Christian Churches; and so forth.

SENATOR DONNELL. I observe you are reading from a piece of literature. Is that issued by your organization?

MR. RANDOLPH. Yes.

SENATOR DONNELL. Would you be kind enough to furnish to the committee—I wonder if you have an extra copy or two or three of them with you?

MR. RANDOLPH. I don't have an extra copy.

SENATOR DONNELL. Could the committee have the benefit of looking at this for a moment?

SENATOR ELLENDER. What is the membership of that council?

Mr. RANDOLPH. We have about 2,000 members; that is, persons who are a part of our local councils in different cities.

Senator ELLENDER. How do you maintain yourself?

Mr. RANDOLPH. By contributions from various organizations, trade-unions, individuals, and the local councils raise funds for the national council.

Senator ELLENDER. I sent for an article in which I think you were quoted as saying, or you made a march on Washington. Are you the man?

Mr. RANDOLPH. Yes, I was the head of the movement.

Senator ELLENDER. That you would get fair employment practice legislation through Executive order by force or otherwise?

Mr. RANDOLPH. The purpose of the movement was to impress upon Congress and the President the importance of the elimination of discrimination in employment relations and the securing of an Executive order.

Senator ELLENDER. You are familiar with the language you used; aren't you?

Mr. RANDOLPH. Oh, yes.

Senator DONNELL. What was the language you used?

Mr. RANDOLPH. I don't recall the specific statement that he refers to.

Senator DONNELL. Well, the substance of it?

Mr. RANDOLPH. I don't know really the specific statement he is referring to.

Senator DONNELL. You don't remember the statement?

Mr. RANDOLPH. No, I can't.

Senator ELLENDER. The import of it all, as I recall it—I will try to get the details for the record—was he headed a march on Washington and he, I believe, took credit for forcing the President to write out the Executive order under which FEPC was established. The article is going to be here in a minute; I have sent for it.

Senator DONNELL. Did you say in substance, Mr. Randolph, that you are going to get this legislation by force if necessary?

Mr. RANDOLPH. Well, the march on Washington movement was a pressure technique.

Senator DONNELL. No; that wasn't what I asked. Did you say that you were going to get this relief by force if necessary?

Mr. RANDOLPH. I don't recall the particular statement, but when he brings it in, why, if I said it—

Senator ELLENDER. I don't want it understood that I quoted him verbatim, but the point is clear that he headed the march on Washington which, in effect, would force the President—he didn't use force himself but his presence indicated his intentions that his march would have the effect of causing the President to execute this order under which FEPC was established.

Mr. RANDOLPH. That was the purpose of the march.

Senator DONNELL. That is the march that was called in June of 1941, and it is referred to in this literature that I am looking at, the paragraph or two referring thereto reading as follows:

Sensing the frustration of minority groups denied the opportunity to help America in the all-out war effort, A. Philip Randolph, international president of the Brotherhood of Sleeping Car Porters, called a conference of Negro leadership to work constructively on the problem. Having exhausted all other democratic

means of obtaining action from Government and industry, the leaders decided to call a march on Washington as a dramatic means of presenting discrimination in employment. Negroes all over the country prepared for this demonstration. However, there was no need to march, for after a historic conference at the White House, President Roosevelt on June 25, 1941, issued Executive Order No. 8802, establishing the President's Committee on Fair Employment Practices to eliminate discrimination in war employment because of race, creed, color, national origin, or ancestry. Thus, although Negroes initiated the movement which resulted in the FEPC, all minorities and the whole Nation benefited.

Now is that the march to which you were referring?

Mr. RANDOLPH. That is right.

Senator DONNELL. I wanted to ask you this. I asked a little while ago—or intended to; perhaps I didn't make it clear or perhaps I didn't understand your answer. I asked you what is the National Council for Permanent FEPC, and I understood you to say that it is a group of cooperating organizations.

Mr. RANDOLPH. Yes; that is right.

Senator DONNELL. And then, in response to a question from Senator Ellender, I think you said that the membership of those cooperative organizations—am I right in that—is about 2,000?

Mr. RANDOLPH. No.

Senator DONNELL. What did you mean by 2,000?

Mr. RANDOLPH. This National Council for Permanent FEPC has local councils in addition to these cooperating organizations. Now these local councils are composed of the local branches of these national organizations that cooperate in the securing of the advancement of the program of the movement.

Senator DONNELL. Now the cooperating organizations that you speak of, are those members also of the National Council for a Permanent FEPC?

Mr. RANDOLPH. They cooperate. In other words, they send representatives to a national board of directors and they develop the policy of the national council. We also have what is known as a policy committee on which representatives of these organizations sit. Then we have an administrative committee which deals with the day-to-day problem, such as the making of findings, decisions, and things of that sort.

Senator DONNELL. Take, for instance, the American Federation of Labor. Is it a member of the National Council for a Permanent FEPC?

Mr. RANDOLPH. It is a cooperating organization.

Senator DONNELL. That is, it cooperates with your organization but is not a member of the National Council for a Permanent FEPC.

Mr. RANDOLPH. Yes; it is a member. It is a cooperating member. We use that term because of the fact that this is a temporary movement; it is not a permanent movement, and, consequently, we use the term "cooperating members," calling these national organizations cooperating members of the national council.

Senator DONNELL. Does the American Federation of Labor contribute to the expenses of the National Council for a Permanent FEPC?

Mr. RANDOLPH. Various international unions of the American Federation of Labor contribute to the national council.

Senator DONNELL. But does the American Federation of Labor itself?

Mr. RANDOLPH. It does not contribute itself.

Senator DONNELL. Well, now, is the American Federation of Labor holder of a membership in the National Council for a Permanent FEPC?

Mr. RANDOLPH. President Green himself is a member of our national board of directors.

Senator DONNELL. I want to know if the American Federation of Labor is a member of the National Council for a Permanent FEPC?

Mr. RANDOLPH. It is; it is a cooperating member.

Senator DONNELL. Well, do you have a constitution in your organization?

Mr. RANDOLPH. No, we don't have a constitution because, as I aforesaid, this is a temporary movement. It has as its sole purpose only the enactment of fair employment legislation, and after that, why, it will go out of existence.

Senator DONNELL. In what way is membership in this organization of yours represented? Do you issue membership certificates or what?

Mr. RANDOLPH. No. We have these different organizations who send representatives to our national board of directors for the purpose of discussing the policies in the program.

Senator DONNELL. Does the American Federation of Labor have a vote in your organization?

Mr. RANDOLPH. Oh, yes. Boris Shishkin—he is on our policy committee. President Green seldom attends meetings. Boris Shishkin sits for him, and whatever is done is done with the consent of the representatives of these various organizations.

Senator DONNELL. But you have no constitution at all.

Mr. RANDOLPH. None whatever.

Senator DONNELL. Is there anything in writing at all that shows what the membership of your organization is?

Mr. RANDOLPH. We have the minutes that are taken from meeting to meeting, and these minutes reflect what is done by the National Council for a Permanent FEPC.

Senator DONNELL. How many of these cooperating organizations did you say you have?

Mr. RANDOLPH. We have 50 or more.

Senator DONNELL. Looking on the back of this, though I didn't count them, it seems to me like a hundred.

Mr. RANDOLPH. Well, that is 50 or more. [Laughter.]

Senator DONNELL. Oh, yes; it is. For instance, I notice that you have a March on Washington. Now what is March on Washington? Is that an organization?

Mr. RANDOLPH. Yes.

Senator DONNELL. Where is it located?

Mr. RANDOLPH. It is located throughout the country, with headquarters in New York City.

Senator DONNELL. How many members does it have?

Mr. RANDOLPH. About 10,000 or more.

Senator DONNELL. March on Washington. Well, is it going to march on Washington on an occasion?

Mr. RANDOLPH. Well, that is the name of the organization. It grew up at a time when there was rampant discrimination against people of color and other minorities in the various defense industries.

Senator DONNELL. Are you the head of March on Washington?

Mr. RANDOLPH. I am.

Senator DONNELL. Has it marched on Washington?

Mr. RANDOLPH. No.

Senator DONNELL. But you kept it in existence and you list that as one of the organizations on record here in Congress as urging early and favorable action on S. 101.

Mr. RANDOLPH. That is right.

Senator DONNELL. That is the bill that was up last year.

Mr. RANDOLPH. Exactly.

Senator DONNELL. Now you have in here the Postwar World Council. What is that?

Mr. RANDOLPH. That is an organization that is interested in problems of peace.

Senator DONNELL. How large an organization is that?

Mr. RANDOLPH. I don't know.

Senator DONNELL. Where is it located?

Mr. RANDOLPH. It is located in New York.

Senator DONNELL. Are you connected with it?

Mr. RANDOLPH. Yes.

Senator DONNELL. In what respect?

Mr. RANDOLPH. Just as a member.

Senator DONNELL. You belong to it?

Mr. RANDOLPH. Yes.

Senator DONNELL. I notice the National Bar Association. That is the bar association of Negro lawyers, is it not?

Mr. RANDOLPH. That is right.

Senator DONNELL. It is a cooperating member of your organization?

Mr. RANDOLPH. Yes.

Senator DONNELL. Then there is the Young Women's Christian Association. Is that a member of your organization?

Mr. RANDOLPH. Yes.

Senator DONNELL. Young Men's Christian Association; national board?

Mr. RANDOLPH. Yes; that is right.

Senator DONNELL. Southern Tenant Farmers Union. Does that belong to your organization, too?

Mr. RANDOLPH. That is right.

Senator DONNELL. Federal Council of the Churches of Christ in America. Is that the organization Dr. Boyd spoke for?

Mr. RANDOLPH. Exactly.

Senator DONNELL. Is that a member of your organization?

Mr. RANDOLPH. That is one of the cooperating organizations.

Senator DONNELL. Is Dr. Boyd here or did he go? Is Dr. Lee here?

Dr. LEE. Yes.

Senator DONNELL. How is your membership evidenced in—

Dr. LEE. I am sorry, but that is handled through Dr. Cameron Hall of the department of industrial relations, and I do not know the intimate details.

Mr. RANDOLPH. Dr. Cameron Hall is a member of our administrative committee.

Senator DONNELL. Well, I am not clear at all yet, Mr. Randolph, as to how a person can tell whether he is or is not a member if you don't have a constitution and you don't have anything in writing that shows

when a person is a member. 'How can anybody know what constitutes membership in your organization?'

Mr. RANDOLPH. Well, the members of the organization are satisfied with the conditions of membership themselves.

Senator DONNELL. I didn't ask you that at all. I asked you how they know they are members.

Mr. RANDOLPH. They know by their representatives on the board of directors.

Senator DONNELL. Do they get letters telling them they are members?

Mr. RANDOLPH. Exactly. In fact, we request them to send representatives to the board of directors and they send them. First they must agree that they want to cooperate with the national council and then they send these representatives.

Senator DONNELL. Proceed with your testimony.

Senator ELLENDER. Before you proceed, where were you born?

Mr. RANDOLPH. Crescent City, Fla.

Senator ELLENDER. Where were you educated?

Mr. RANDOLPH. New York City.

Senator ELLENDER. How long have you lived in New York City?

Mr. RANDOLPH. About 35 years.

Senator ELLENDER. You have been head of the porters union, haven't you?

Mr. RANDOLPH. Yes, for 21 years.

Senator ELLENDER. What is your membership in that organization?

Mr. RANDOLPH. We have at the present time about 12,000.

Senator ELLENDER. Are they all colored?

Mr. RANDOLPH. No. We have whites, Filipinos, Mexicans.

Senator ELLENDER. What percentage are colored?

Mr. RANDOLPH. I would say about 80 percent.

Senator ELLENDER. No discrimination is practiced there?

Mr. RANDOLPH. No discrimination. We have no color clause in our constitution.

Senator DONNELL. Mr. Randolph, you are going to provide us with a copy of this pamphlet, are you, for A Permanent Fair Employment Practice Commission? Will you send it to Mr. Rodgers, clerk of the committee, please?

Mr. RANDOLPH. Yes.

(Mr. Randolph subsequently submitted the following pamphlet:)

A PERMANENT FAIR EMPLOYMENT PRACTICE COMMISSION

"THE RIGHT TO A JOB IS THE RIGHT TO LIVE"

"This is rooted in the American tradition as set forth in the Declaration of Independence, the Constitution, and the Bill of Rights, but 'basic law is necessary to implement our Constitution, which gives to all people the right and freedom to work.'"

1941

In the lend-lease period before Pearl Harbor America was considered the arsenal of democracy. Workers were sought to man machines for war production, but barriers of prejudice stood between segments of workers and idle machines. All minorities were affected, but Negroes, as the largest group, suffered most.

June 1941

Sensing the frustration of minority groups denied the opportunity to help America in the all-out war effort, A. Philip Randolph, international president of the Brotherhood of Sleeping Car Porters, called a conference of Negro leadership to work constructively on the problem. Having exhausted all other democratic means of obtaining action from government and industry, the leaders decided to call a march on Washington as a dramatic means of presenting discrimination in employment. Negroes all over the country prepared for this demonstration. However, there was no need to march, for after a historic conference at the White House President Roosevelt on June 25, 1941, issued Executive Order 8802, establishing the President's Committee on Fair Employment Practice to eliminate discrimination in war employment because of race, creed, color, national origin, or ancestry. Thus, although Negroes initiated the movement which resulted in the FEPC, all minorities and the whole Nation benefited.

1942

The President's FEPC has had extraordinary success, but it has had its failures, too, because it is not backed by law and has no authority to enforce its orders. Leaders began to ask: "Why not strengthen this Committee? Why not make it permanent? If it is unfair to discriminate in wartime, isn't it equally unfair to discriminate in peacetime?" Again Mr. Randolph took the initiative and on December 30, 1943 in a conference of leaders in Washington—this time broadened to include Negro and white, civic, union, and religious leaders—there was established the National Council for a Permanent Fair Employment Practice Commission. Honorary chairmen are Senators Arthur Capper and Robert F. Wagner, and the working cochairmen are A. Philip Randolph and Dr. Allan Knight Chalmers.

January 1944

The Dawson-Scamion-LaFollette bills for a permanent FEPC were introduced in the House of Representatives and referred to the Committee on Labor, chaired by Mrs. Mary T. Norton. Preliminary hearings were held on the bills in June 1944, at which prominent religious, civic, and union representatives testified in favor of the bills.

February 1944

The National Council for a Permanent FEPC established offices in Washington, D. C., with an interracial, interfaith staff.

June 23, 1944

Senator Dennis Chavez, of New Mexico, introduced bill S. 2018 (companion to the House bill) in the Senate with the following cosponsors: Senators Downey, Wagner, Murray, Capper, and Langer. This bill was referred to the Senate Committee on Education and Labor, chaired by Senator Thomas of Utah. Chairman Thomas appointed Senator Chavez chairman of a subcommittee to conduct hearings.

June 1944

The Republican National Convention put into the party platform a plank calling for a permanent FEPC. Both Presidential candidates and scores of candidates for Senate and House advocated a permanent FEPC in their campaign speeches.

August and September 1944

Hearings were held before the Senate Subcommittee on Education and Labor, at which prominent religious and labor leaders testified as follows:

Rt. Rev. Mgr. John A. Ryan, D. C., nationally known Catholic leader: "Discrimination, whether practiced by employees or employers, is definitely immoral * * * as if they committed theft or murder. * * *

Rabbi Stephen S. Wise, American Jewish Congress: "I rest my case for the permanence of the Fair Employment Practice Committee on one basic truth: Racial, religious discrimination in the field of employment is a denial of democracy and is of the essence of fascism. * * *

Bishop G. Brantley Oxnam, Federal Council of Churches of Christ: "The religious forces and I believe the democratic forces of the United States face a fundamental problem here, and that is finding concrete means to translate our ethical ideals into the realities of economic justice and racial brotherhood. * * *

Rabbi J. N. Cohen, Commission of Economic Discrimination: "Discrimination against Jewish persons in the economic field * * * is a paramount issue confronting American Jewry * * *."

Rev. William H. Jernagin, Fraternal Council of Negro Churches: "Jobs and security must be provided for all our citizens if we expect our institutions of freedom to survive * * *. The world and human beings are so made that you cannot organize life securely or permanently on injustice and oppression * * *."

Dr. Carlos Castaneda, social worker: "Our Spanish-speaking population in the Southwest * * * are ill-dressed, ill-fed, ill-cared-for medically, and ill-educated, all because of the low economic standard to which they have been relegated as the result of restricting their employment * * *."

William Kohn, president emeritus, Upholsterers International Union, AFL: "Any employer or trade-union official who discriminates against workers on account of race, creed, color, or national origin in employment * * * is paving the way for sharp racial conflicts in the United States, compared to which the Detroit race riot would look like a street brawl * * *."

James H. Carey, executive secretary, CIO: "It is a matter of practical common sense. The unions that are affiliated to the CIO have found that discrimination against any minority of our citizens results in damage to the interests of all * * *."

September 1944

Bill S. 2048 was reported out favorably by the Senate Committee on Education and Labor.

November 1944

Bill H. R. 3980 was reported out favorably by the House Committee on Labor.

December 1944

A campaign-weary Seventy-eighth Congress went home for Christmas recess leaving much unfinished business behind, including the bills to establish a permanent Fair Employment Practice Commission.

January 1945

Encouraged by the progress made in the Seventy-eighth Congress, the National Council for a Permanent FEPC arranged for reintroduction of bills in the Seventy-ninth Congress.

In the House, Congressman Charles M. LaFollette (Republican, Indiana) took the lead, followed in quick succession by several Representatives of both parties: Joseph Clark Baldwin (New York), George H. Bender (Ohio), Charles R. Clason (Massachusetts), William L. Dawson (Illinois), Everett M. Dirksen (Illinois), Helen Gabagan Douglas (California), Clyde G. Doyle (California), Frank E. Hook (Michigan), Mary T. Norton (New Jersey), Adam C. Powell, Jr. (New York), and John M. Vorys (Ohio).

In the Senate, Senator Dennis Chavez (Democrat, New Mexico) introduced a companion bill, S. 101, with six cosponsors: Senators Murray, Downey, Wagner, Aiken, Capper, and Yanger.

February 1945

Senator Robert A. Taft (Republican, Ohio) introduced a Senate bill to create a permanent FEPC without enforcement powers. Public reaction was instantaneous. Other important Republican leaders agreed with church, civic, and labor groups that such a FEPC would be worthless.

The House Labor Committee, again chaired by Mrs. Mary T. Norton, reported favorably H. R. 2232 with full committee backing. The Senate Committee on Education and Labor (Senator James E. Murray, chairman) plans early action. Both bills will soon come to floor of House and Senate for discussion and vote.

WHAT YOU CAN DO

1. Send a contribution to the National Council for a Permanent FEPC, 980 F Street NW., Washington 4, D. C.
2. Write your Senators and Representatives urging them to vigorously support and vote for the bills to make FEPC permanent.
Let's work together.

Senator ARTHUR CAPPER,
Senator ROBERT F. WAGNER,
Honorary Chairmen.

A. PHILIP RANDOLPH,
Dr. ALAN KNIGHT CHALMERS,
National Council for a Permanent FEPC, Vicechairmen.

Mrs. ANNA ARNOLD HEIDEMAN,
Executive Secretary.

PARTIAL LIST OF ORGANIZATIONS ON RECORD IN CONGRESS AS URGING EARLY AND FAVORABLE ACTION OF THE PERMANENT FEPC BILL (S. 101; H. R. 2232)

National organizations

Alpha Kappa Alpha Sorority
American Civil Liberties Union
American Friends Service Committee
American Jewish Committee
American Jewish Congress
American Unitarian Association
American Unitarian Youth
B'nai B'rith
Catholic Interracial Council
Common Council for American Unity
Congregational Christian Churches (Council for Social Action)
Congress of Industrial Organizations
Consumers League of America
Delta Sigma Theta Sorority
Evangelical and Reformed Church, General Synod
Federal Council of the Churches of Christ in America
Fraternal Council of Negro Churches in America
Improved Benevolent and Protective Order of Elks of the World
International Brotherhood of Sleeping Car Porters (AFL)
International Ladies Garment Workers Union of America (AFL)
Jewish Labor Committee
Jewish War Veterans of the United States
League of United Latin American Citizens
March on Washington
Methodist Church, General Conference
Methodist Ministers' Union
Millinery Workers, Joint Board (AFL)
National Alliance of Postal Employees
National Association for the Advancement of Colored People
National Association of Colored Graduate Nurses
National Bar Association
National CIO Committee To Abolish Racial Discrimination
National Community Relations Advisory Council
National Conference of Christians and Jews
National Council of Catholic Women
National Council of Jewish Women
National Council of Negro Women
National Council of Student Christian Associations
National Council for a Permanent FEPC
National Farmers Union
National Federation for Constitutional Liberties
National League of Women Shoppers
National Negro Insurance Association
National Urban League

National Women's Trade Union League of America
 Negro Newspaper Publishers Association
 Postwar World Council
 Presbyterian General Assembly
 Sigma Gamma Rho Sorority
 Southern Tenant Farmers Union
 Study Conference on Just and Durable Peace
 Union of American Hebrew Congregations
 Union for Democratic Action
 United Council of Church Women
 Upholsterers International Union of North America (AFL)
 Women's Division of Christian Service, Methodist Church
 Women's Division of the American Jewish Congress
 Women's International League for Peace and Freedom
 Workers Defense League
 Young Men's Christian Association, National Board
 Young Women's Christian Association, National Board

Community organizations

Albany Council for a Permanent FEPC
 Bay Area Council Against Discrimination, San Francisco
 Belen (N. Mex.) Council for a Permanent FEPC
 Buffalo (N. Y.) Council for a Permanent FEPC
 Chicago Council Against Racial and Religious Discrimination
 Chicago Mayor's Committee on Race Relations
 Citizens Committee for Interracial Action, Salt Lake City
 City-Wide Citizens' Committee on Harlem
 Cleveland (Ohio) Council for a Permanent FEPC
 Columbus Metropolitan Fair Employment Practice Committee
 Committee of One Hundred, San Antonio
 Coordinating Council for Latin American Youth, Los Angeles
 Denver Council for a Permanent FEPC
 Detroit Council for a Permanent FEPC
 Detroit Metropolitan Council for Fair Employment Practice
 East Bay Council for a Permanent FEPC (Berkeley, Calif.)
 Flint (Mich.) Council for a Permanent FEPC
 Indianapolis Council for a Permanent FEPC
 Interracial Commission of St. Louis
 Kansas-Missouri Council for a Permanent FEPC
 King Hiram Grand Lodge, Vauxhall, N. J.
 Los Angeles Council for a Permanent FEPC
 Louisville (Ky.) Council for a Permanent FEPC
 Massachusetts Citizens Committee for Racial Unity
 Mexican Civic Committee, Chicago
 New Orleans Council for a Permanent FEPC
 New York Metropolitan Council on Fair Employment Practices
 Omaha Council for a Permanent FEPC
 Paterson (N. J.) Council for a Permanent FEPC
 Philadelphia Metropolitan Council for Equal Job Opportunity
 Pittsburgh Citizens' Coordinating Committee
 Portland (Oreg.) Council for a Permanent FEPC
 St. Louis Council for a Permanent FEPC
 San Diego Council for a Permanent FEPC
 Seattle Council for a Permanent FEPC
 Southwestern Connecticut Committee To Promote Fair Employment Practices
 Spanish American Citizens Association, Denver
 The Frontiers Club of Dayton
 Utah Council for a Permanent FEPC
 Utica Council for a Permanent FEPC
 Vallejo (Calif.) Committee on Interracial Affairs
 Washington (D. C.) Committee on Race Relations
 Worcester (Mass.) Council for a Permanent FEPC
 Yankers (N. Y.) Council for a Permanent FEPC

Senator DONNELL. All right, proceed.

Mr. RANDOLPH. I appear here in support of the Ives-Chavez bill, S. 984, as cochairman of the National Council for a Permanent FEPC

and as president of the International Brotherhood of Sleeping Car Porters, AFL.

The National Council for a Permanent FEPC has as its single purpose the promotion of enactment at the earliest possible date of a Federal law against discrimination in employment and for the establishment of fair-employment practices throughout the Nation. In compliance with the Reorganization Act we have filed with the Secretary of the Senate statements of our receipts and expenditures and these statements are open to public inspection.

We have a list of our members of the boards of directors, but I shan't read them. You have a copy of the statement here.

Senator DONNELL. You will put that into the record?

Mr. RANDOLPH. Yes.

Speaking for the National Council for a Permanent FEPC, we wish to register our wholehearted endorsement and support of this bill and respectfully to impress upon the committee the dire need for its enactment at the earliest possible date. It is with this thought in mind that we have limited the number of our witnesses and the length of testimony. Similarly we have urged on cooperating groups and organizations the need for economy of time so that the hearings may be speedily completed, thus permitting an early report to the Senate. The overwhelming sentiment for enactment of such legislation, coming from the organized conscience and enlightened self-interest of a majority of the American people has been demonstrated at previous hearings on earlier fair-employment bills. The same sentiment will, I am sure, be made evident in the course of the hearings beginning today.

Mr. Chairman and members of the committee, it is said that comparisons are invidious. Therefore I will not state that enactment of S. 984 is most important and most urgent for the more than 20,000,000 members of minority groups who are at present discriminated against and for the other wage earners, farmers, and businessmen whose buying power and markets are depressed by such discrimination.

Beyond and above this issue of economic justice, there are the issues of moral and social justice to which reference has been made.

Fundamentally the issue is freedom, practical day-to-day freedom, made real by equal opportunity for employment. Only as we establish this principle of fair employment in actual practice will we have freedom from want, freedom from fear, and freedom of religion. So long as one man or one group, or one race or creed or color, is not free, no man is wholly free. The bell tolls for all or none.

This is particularly true in our modern industrial civilization. Unless certain minimum standards of human decency and fairness of opportunity and treatment in employment are set and enforced, Gresham's law begins to work. Base money drives out good, base standards of employment and discrimination tend to drive out or drag down decent standards that have been established by fair employers and by labor unions through collective bargaining and by education within their own ranks.

Senator DONNELL. Mr. Randolph, may I interrupt you, please? I asked you about the American Federation of Labor. I observe in looking over this list of organizations that the American Federation of Labor is not listed here as one of these organizations. I do note this,

that there are several constituent bodies, as, for illustration, the International Brotherhood of Sleeping Car Porters, International Ladies Garment Workers Union of America, Upholsterers International Union of North America, as far as I observe in hastily glancing over this. However, I don't want the record to be incorrect. The American Federation of Labor itself as such is not a member?

Mr. RANDOLPH. No; it is a cooperating member.

Senator DONNELL. Well now, why isn't it listed here?

Mr. RANDOLPH. I never noticed that, but that is perhaps a mistake, an oversight in printing, but the American Federation of Labor, just as the CIO—you see the CIO?

Senator DONNELL. I see the CIO, but I don't know. You might look at it and see if I have overlooked it. But I have searched and I don't find the American Federation of Labor, and it would seem to me that such an important member as that should be listed. Do you see it listed there?

Mr. RANDOLPH. Our executive director tells me that this is an old document, but that the new listing does include the AFL.

Senator DONNELL. Did the AFL become a member of your organization?

Mr. RANDOLPH. They have been part of our cooperating group from the beginning of the national council.

Senator DONNELL. And when was the national council formed, please?

Mr. RANDOLPH. It was formed, I believe, in 1944, around that time.

Senator DONNELL. 1944?

Mr. RANDOLPH. 1945, I think.

Senator DONNELL. Well, was the American Federation of Labor a member of your organization right from the start of your organization?

Mr. RANDOLPH. Well, not from the very beginning, but very soon thereafter.

Senator DONNELL. Was it a member at the time this piece of literature I have been reading, entitled "A Permanent Fair Employment Practice Commission," was issued? Was it then a member?

Mr. RANDOLPH. Yes.

Senator DONNELL. And it was due to an oversight that it was not placed in the list here?

Mr. RANDOLPH. That is right; it was an oversight.

Senator DONNELL. All right, proceed.

Mr. RANDOLPH. The penalties must be laid, not upon the majority of fair employers and unions, but upon the unfair and stubborn few. So let it at least be said that, for the freedom and welfare of minorities and equally for the freedom and welfare of all Americans, no other bill is more important, more urgent than this proposal.

As a domestic issue, the most significant and ironic fact is that to win the war we had a measure of fair employment, but now, in the peace for which we fought and worked, that first small pilot operation has been destroyed—destroyed by the act of the Seventy-ninth Congress. And, although a majority of the members of both Houses were known to favor permanent fair employment legislation, no effective action has been taken to continue in peace what was so well begun in war. Today, we have veterans of minority groups, honored and dec-

orated as heroes, returning to a civilian life in which the old patterns and practices of discrimination have returned with brutal, degrading, and divisive force.

Senator DONNELLY. Let me interrupt you again in order that the record may be clear. I note in this piece of literature that December 1963 is given as the date of a conference of leaders in Washington at which, as I understand the language here, there was established the National Council for a Permanent Fair Employment Practice Commission. So that is the correct date; is it not?

Mr. RANDOLPH. That is the correct date.

They are finding they can't eat the fruit salad on their jackets.

For these veterans and for all the millions who suffer the injury of discrimination in employment, inflicted anew each and every working day of their lives, this bill represents the hope that this Eightieth Congress will not short weight the war aims and the wartime sample of freedom from discrimination in employment represented by the FEPC.

The damage which discrimination in employment does to democracy as an ideal and as a way of life is great and in large measure irreparable. Discrimination in employment damages lives, both the bodies and the minds, of those discriminated against and those who discriminate. It blights or perverts that healthy ambition to improve one's standard of living which we like to say is peculiarly American. It generates insecurity, fear, resentment, division, and tension in our society.

In addition to this damage to the national well-being, discrimination in employment, as I have indicated, keeps in motion a vicious circle in our economy. Such discrimination depresses wages for minority groups and, because of desperate competition for jobs by members of these minority groups, discrimination in employment exerts a downward drag on all wages. This, in turn, cuts mass purchasing power and thereby constricts the market for all goods and services.

The circle then begins another round as reduced markets cut production; reduced production cuts employment; reduced employment cuts wages, and, in the absence of effective standards of fair employment, tends to increase and aggravate the very discrimination in employment which set the vicious circle in motion. This is the road of depression, division, and disaster.

Mr. Walter White, the executive secretary of the National Association for the Advancement of Colored People, recently estimated that the share of some 14,000,000 Negroes in the national income was in the neighborhood of \$10,000,000,000 to \$12,000,000,000 a year. A recent compilation by Mr. Boris Shishkin, economist for the American Federation of Labor, of figures on weekly income differentials between white and Negro veterans in 26 American cities showed that white veterans' income ranged from 30 percent above the income of Negro veterans in Birmingham, Ala., to a high of 78 percent in Jackson, Miss.

I wish to offer for the record at this point a statement by the National Council for a Permanent FEPC calling attention to the shocking differentials and including the compilation prepared by Mr. Shishkin from a survey made by the Bureau of the Census and the Bureau of Labor Statistics for the National Housing Agency.

I have here a statement on this matter that I would like to have the committee incorporate in the record. Mr. Shishkin no doubt will

accompany President Green when he appears before the committee and can elaborate on that statement.

Senator DONNELLY. Very well, it will be received and entered into the record.

(The statement submitted by Mr. Randolph is as follows:)

The seriousness of existing discrimination in employment is indicated by the fact that the average weekly income of white veterans ranges from 30 to 78 percent above the average weekly income of Negro veterans in 20 American communities, 25 of them in the South.

This was pointed out today by Elmer W. Henderson, executive secretary of the National Council for a Permanent FEPC, in a letter to the President's Committee on Civil Rights. At the request of the committee he transmitted a comparison of incomes of white and Negro veterans by the American Federation of Labor's research and information department compiled from a veterans' housing survey made between July 1946 and January 1947 by the Bureau of the Census and the Bureau of Labor Statistics for the National Housing Agency.

"Washington, D. C., is sixth from the bottom of the list," Henderson stated. "In the Nation's Capital, white veterans' average weekly income was 68 percent above the average weekly income of Negro veterans. Eighty-four thousand white veterans surveyed in Washington, D. C., had an average income of \$53 a week, while 36,000 Negro veterans covered by the survey had average incomes of only \$32 a week.

"Twenty southern communities had smaller veterans' income differentials than Washington, D. C., the survey shows.

"In Birmingham, Ala., in the deep South, the survey showed 21,000 white veterans had an average income of \$30 a week, while 9,000 Negroes had average incomes of \$30 a week, a differential of 30 percent.

"In New Orleans, 33,000 white veterans had average incomes of \$38 per week, while 11,000 Negro veterans had average incomes of \$28, a differential of 30 percent.

"In Baltimore, 70,000 white veterans had average incomes of \$43, while 20,000 Negro veterans had average incomes of \$31 per week, a 30 percent differential.

"In Atlanta, 30,500 white veterans had weekly incomes of \$30 and 9,500 Negro veterans had average incomes of \$30 a week, a differential of 53 percent.

"In Memphis, 22,500 white veterans received an average of \$40 a week, while Negro veterans received only \$20, a differential of 50 percent.

"In Houston, 30,000 white veterans averaged \$40 a week and 4,000 Negro veterans averaged \$30, a differential of 43 percent.

"The five communities with the worst income differentials between white and Negro veterans were the Beaumont-Port Arthur area, Texas, the Jacksonville, Fla., area, Austin, Tex., Columbia, S. C., and, at the bottom of the list, with 78 percent, Jackson, Miss."

Henderson said that a considerable part of the disparity in income can fairly be assigned to outright discrimination in employment "because of race, religion, color, national origin, or ancestry," which the Ives-Chavez bill, creating a National Commission Against Discrimination in Employment, would remedy.

"Were such a law now in effect," Henderson said, "the differentials revealed by this survey would be much slighter.

"These differentials should be shocking, not only to all wage earners but to businessmen seeking mass markets for the abundant production that is now in sight and, in some instances, already overhanging and depressing the market. Obviously, the Negro veteran in Jacksonville having an average income of \$28 a week to spend cannot buy as much as the white veteran in the same town with an average income of \$48."

"Nor is the Negro veteran in Washington, D. C., with an average income of \$32, able to buy as much of American production as the white veteran in the same city who has an average weekly income of \$53 per week.

"This compilation, prepared by the Research and Information Department of the American Federation of Labor from the Bureau of Census-BLS veterans' housing survey, furnishes additional proof, if proof were needed, that early enactment of the Ives-Chavez bill is needed, not only as an overdue act of social and economic justice but as an aid to postwar consumption, distribution, production, and employment."

Comparison of average weekly income of white and Negro veterans between July 1946 and January 1947 in cities reporting income by color

City	Number of veterans		Average weekly income		Percent average weekly income of white veterans above that of Negro veterans
	White	Negro	White	Negro	
Birmingham, Ala.	21,000	9,000	\$39	\$30	30
Tampa and Port Tampa, Fla.	6,500	1,500	37	28	32
Asheville, N. C.	4,200	800	40	30	33
New Orleans	36,000	14,000	38	28	30
Baltimore, Md.	70,000	20,000	43	31	32
Roanoke, Va.	8,400	1,000	42	30	40
Louisville area, Kentucky and Indiana	40,000	8,000	42	29	45
Richmond, Va.	15,000	4,000	48	31	45
Greensboro, N. C.	8,000	1,100	44	30	37
Chattanooga, Tenn.	11,000	2,100	45	39	50
Atlanta, Ga.	30,500	9,500	46	30	53
Fort Worth, Tex.	16,000	2,000	46	30	53
Raleigh, N. C.	3,300	700	43	38	54
Memphis, Tenn.	22,800	7,200	46	29	59
Montgomery, Ala.	5,100	2,000	46	29	59
Baton Rouge, La.	7,900	2,500	50	31	61
Charlotte, N. C.	8,200	1,800	45	28	61
Houston, Tex.	30,000	4,000	49	30	63
Waco, Tex.	3,100	900	43	26	63
Shreveport area, Louisiana	8,500	2,500	48	29	60
Washington, D. C., metropolitan district	84,000	30,000	53	32	60
Incident-Port Arthur area, Texas	4,200	1,800	47	26	68
Jacksonville area, Florida	12,500	3,500	48	26	71
Austin, Tex.	8,500	700	43	25	72
Columbia, S. C.	1,000	1,000	44	25	70
Jackson, Miss.	4,500	1,500	48	27	78

Source: Department of Commerce, Bureau of the Census; Department of Labor, Bureau of Labor Statistics, veteran housing surveys made from July 1946 to January 1947 by the Bureau of the Census and the Bureau of Labor Statistics for the National Housing Agency. Compiled by the research and information department, American Federation of Labor.

Mr. RANDOLPH. A considerable part of these income differentials, which may fairly be considered typical for all wage earners in the cities covered and indicative of the national pattern, is chargeable directly to discrimination in employment. Others factors are lack of educational opportunities, vocational training, and opportunities for employment experience, upgrading, and promotion. All these factors, however, largely stem from the basic evil of discrimination in employment which, back over the years, cut school attendance, vocational training, and on-the-job work experience. In short, most of the income differential between whites and Negroes is due, directly and indirectly, to discrimination in employment.

If discrimination in employment against Negroes could be replaced by fair employment practices tomorrow, it would appear that a direct increase in income to Negroes would amount to at least four to five billion dollars a year, using the differential percentages already cited.

If discrimination in employment against Negroes and all other minority groups were replaced by fair employment, the national income and market might be increased by 8 to 10 billion dollars. I recognize that this estimate is not susceptible of statistical proof, but I believe it to be a reasonable and conservative estimate. In making it, I have, of course, made the assumption of a full-production, high-employment economy which is our national policy as ex-

pressed in the Employment Act of 1946 and in the platforms of both major political parties.

This addition to the national income and markets for goods and services would not be at the expense of other wage earners but would benefit them by freeing them from the sweatshop competition of discriminatory wage rates based on race, religion, color, national origin, or ancestry. Industry, business, and the whole national economy would benefit. From the date this bill becomes effective and to the degree it is effective, the old vicious circle of discrimination in employment will be replaced by a new beneficent circle of fair employment.

Let us now consider S. 984 in relation to our country's foreign policy and its role and standing in international relations. Section 2-C reads:

This Act has also been enacted as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote "universal respect for, and observance of, human rights and fundamental freedom for all without distinction as to race, sex, language, or religion."

Enlarging the focus of our attention to include the 2,000,000,000 people of the world, peoples of all races, religions, colors, national origins, and ancestry, it is, I think, accurate to state that the eyes of many hundreds of millions, particularly those of darker color, are fixed on this bill, along with other pending bills against discrimination, such as the anti-poll-tax and anti-lynching measures. Their eyes are on the hearing and its outcome, watching to see whether or not the fine words to which we put our hands and seal in the signing and ratification of the United Nations Charter are put to work here in the U. S. A. by enactment of this bill or are made an empty mockery by its defeat.

The State Department policy, as I understand it, is plain. Last year, in a letter to the expiring Fair Employment Practice Committee, the then Acting Secretary of State, Dean Acheson, wrote:

• • • the existence of discrimination against minority groups in the United States is a handicap in our relations with other countries. The Department of State, therefore, has good reason to hope for the continued and increased effectiveness of public and private efforts to do away with these discriminations.

On March 14, this year, speaking to the Council of Foreign Ministers in Moscow, Secretary of State George C. Marshall redefined democracy. He said:

To the American Government and citizens, it, democracy, has a basic meaning. We believe that human beings have certain inalienable rights—that is, rights which may not be given or taken away.

To us, a society is not a democracy, is not free, if law-abiding citizens live in fear of being denied the right to work or deprived of life, liberty, and the pursuit of happiness.

It is, I submit, plain, that enactment and effective administration of this bill is necessary not only for our domestic well-being and the practice of democracy here at home but also as proof that we practice in Washington and throughout the Nation the high principles to which we have subscribed at San Francisco, Moscow, and other international conferences.

Enactment is required to strengthen democracy within and without. We need to prove our faith by our daily works and thereby to make

it a shining example that will enlist the allegiance of other peoples confronted with the choice between democracy and totalitarianism in the great show-down that now seems to be rushing upon the world.

The grim anxiety with which peoples in other lands regard the fate of this bill is heightened, I hardly need state, by recent occurrences here at home, such as returning discrimination in employment, increasing tension, outbreaks of mob violence against minorities, and lynchings followed by failure or refusal to apprehend, bring to trial, and convict the persons and groups responsible.

Millions here in America will view the developments on this bill with the keenest interest. Some—I think the great majority—will watch with hope drawn taut to the breaking point by waiting and repeated disappointment. Others will watch with cynicism overlaying a hope that has been almost destroyed by frustration and disappointment. But, great as is the anxiety of minorities here in the U. S. A. and of all Americans of good will who understand the importance of this measure, the anxiety of other people may be greater because their danger and their need are greater. Imperfect though our practice of democracy is, it is a fact that, because of our material strength and our promises to defend freedom and democracy, our Nation is regarded, more generally than ever before, as man's last best hope on earth.

In the enactment of this bill and such companion measures as the anti-lynching and anti-poll-tax bills, the Congress has the opportunity and, if we may say so, the responsibility for strengthening that hope. Thereby freedom and democracy will be made stronger here and throughout the world.

The bill before you is necessary, is fair, is workable.

It is not an attempt to legislate against prejudice in the mind of man; it is a method for eliminating the act of discrimination in employment.

It is, in our judgment, carefully drafted to take advantage of experience gained in the operation of the wartime FEPC, or the criticism made of earlier fair-employment-practice bills, and of the high degree of success in the administration of State antidiscrimination laws in Massachusetts, New Jersey, and New York, where a year's experience is now available.

In our view, S. 984 is a fresh approach to the problem of insuring fair employment; a difference in degree and the introduction of new methods amount to a difference in kind.

Of course, provisions for enforcement have been kept in the new bill.

The procedures have been changed in conformity with the Administrative Procedures Act; unlike those proposed in earlier bills, they do not correspond to procedures under the National Labor Relations Act.

More important, as a matter of practical administration, emphasis has been put upon obtaining compliance by information, education, conciliation, and the assembly of local community good will in advisory councils.

I think that feature of the bill is extremely important by way of making communities of a state of mind where the acceptability of this bill will be a normal and a natural thing.

You have made quite a number of comments this morning on the question of enforcement. Well, now, this bill contains both the enforcement and the educational features; and consequently, in that respect, it is superior to the Chavez bill.

Perhaps the most important single new provision calls for the posting in work places of facts about the law and the rights and duties of employers and labor organizations thereunder. Experience in the administration of other laws such as workmen's compensation, unemployment compensation, and the Fair Labor Standards Act shows that common knowledge of the law is the first step in obtaining general compliance.

While endorsing these new features, we hold that, if they are to have meaning and effectiveness, they must be backed up by provisions for enforcement in extreme and stubborn instances of violation.

In that connection, Mr. Chairman and members of the committee, may I observe that you have here spoken about the resistance of communities to legislation of this nature and that by imposing such legislation upon various communities you endanger the public peace, and so forth, and increase tensions. I think, on the contrary, that this sort of legislation will reduce the tension. Take, for instance, Harlan, Ky. When the Wagner Labor Disputes Act was enacted, it was resisted by the industrial forces in Harlan, Ky., and northwest Virginia with violence. Nevertheless, the Wagner Labor Disputes Act was finally accepted, and the Wagner Labor Disputes Act did not have the educational approach that this legislation has. In other words, it had a judicial review feature which was far more stringent and exacting than the judicial review feature of this bill.

S. 984 is not concerned with race or religious or nationality prejudice. It deals with only one thing, and that is the practice of discrimination on the grounds of color, religion, national origin, or ancestry, which deprives a worker of a job, or rather, his right to live, because on the job the worker receives wages, and with wages he buys food, clothing, and shelter, the basis of his life. Therefore, whoever seeks to prevent a worker from securing a job is seeking to deny him the right to live, which is a very definite nullification of the basic principles of the Declaration of Independence and the Federal Constitution.

It is a fallacy to construe race prejudice as synonymous with racial discrimination. They are two different things. Race prejudice is an emotion or feeling. Racial discrimination is an act, a practice. While we cannot by law make a white employer or worker love a Negro worker, or a Protestant worker love a Jewish worker, or a worker in Boston love an employer or worker in Atlanta, Ga., we can stop employers and workers from closing the shops and the unions at the same time. Laws can stop hoodlums from smearing synagogues and cathedrals with swastikas. Laws can stop mobs from lynching people for any reason.

It may be of interest to you to know that in the South we have what is known as a Jim Crow car. It is an institution maintained by the law. Just as the law maintains the Jim Crow institution, the law may abolish the Jim Crow institution, and when you follow the history of the Labor Relations Act, you will be impressed with the fact that there was a time in this country when the company did to the worker who was affiliated with a union the very same thing that is

being practiced upon minorities now. In other words, if a worker was affiliated with the union, he was a victim of discrimination.

Now if a National Labor Relations Act can eliminate discrimination against a worker because of union affiliation, we can have legislation that can eliminate discrimination because of race or religion. I think that is very important for us to keep in mind in thinking about this piece of legislation.

I do not condemn the trade-union workers who discriminate against Negro workers and other minorities. Fundamentally, black and white workers do not fight each other because they hate each other, but they hate each other because they fight each other, and they fight each other because they do not understand each other. But if they work together, they will understand each other.

I think that meets the issue that Senator Ellender has raised here about the relationship between workers.

Now, when you make an analysis of jobs, for instance, an assembly line, and you have a number of men working in that area in the plant, the very nature of the job, the specialization of modern industry renders it impossible for a segregation practice to be established in that plant.

You take, for instance, a toilet. It would be uneconomical for a plant to establish two toilets in the same industrial area as a means of accommodating 3 or 4 or half a dozen or even 50 or more workers merely because of difference in race. Consequently, when anyone maintains that to take that before the Fair Employment Practice Commission and to insist upon the same general industrial conditions under which the worker shall work and to contend that doing that is to emphasize social equality as in contradiction to the spirit and principle of the bill, why, I think that is a contradiction in turn.

As a matter of fact, industry can't bear these uneconomical practices that are suggested by various representatives who hold that we must have segregation in industry and we must have segregation in every phase of American life, and you can see the very poverty of the South shows that segregation is sucking the economic lifeblood out of the South.

Senator ELLENDER. You mean segregation does that?

Mr. RANDOLPH. Yes; because you have what is known as economic duplication in the South. You have duplication in the school system; you have duplication in various things.

Senator ELLENDER. Of course, you have it here in Washington.

Mr. RANDOLPH. Well, that doesn't make it right, too, and wherever you have that duplication it is a waste of the taxpayer's money. It is uneconomical and unsound from the point of view of sheer economics, and, as a matter of fact, time will prove that it is a basic economic fallacy and must be eliminated.

Senator ELLENDER. Why should the colored people object to segregation, for instance, in the case that I mentioned that took place at Point Breeze, Md., if the same facilities are accorded to them? What difference does it make if one section is labeled colored, the other white?

Mr. RANDOLPH. In the first place, Senator, it is a basic insult. It is an insult to anyone to separate and segregate them on a basis of race or color, and, as a matter of fact, people don't object to things always

because of economic deprivation. But there is a moral and spiritual force involved here and, as a matter of fact, there are some people who will forego an economic gain in order that they maintain their self-respect.

Senator ELLENDER. You mean to rub elbows.

Mr. RANDOLPH. And the Negro people take that position, and I think they are unequivocal about that. As a matter of fact, I would not think of retreating from that position, and I express the view of practically 100 percent of the Negroes in this country, and not only Negroes, but a large section of the white people. The business interests also recognize that this matter of discrimination is too great a luxury for the American economy to continue to endure.

Senator ELLENDER. Well, I wouldn't argue the point with you because we just think differently. [Laughter.]

Mr. RANDOLPH. No doubt about that.

Senator ELLENDER. And I suppose that if you presently lived down South and studied the situation, you would find it a far cry from what the conditions now are and what they were 30 years ago. I don't know whether you are aware of it or not, but I would say that in my own State of Louisiana, we are today spending as much money for educating colored people as we spent 30 years ago for both white and colored. And if that doesn't mean progress for the colored people, I don't know what does, and it is only a question of education. But some people want to remedy such matters overnight. They want to just force the issue, and to my way of thinking, it is going to do more harm than good.

Mr. RANDOLPH. Well, Senator Ellender, that is a certain form of progress, but progress doesn't merely consist of establishing plants.

Senator ELLENDER. Establishing what?

Mr. RANDOLPH. Educational plants, educational buildings, spending money to build buildings or employ teachers. That is not the whole purpose of education. The real basic purpose of education is to make human beings conscious of their moral and spiritual dignity and—

Senator ELLENDER. And social, too. Is that true?

Mr. RANDOLPH. And where you have an educational system which is an expression of the Jim Crow principle, why, you are nullifying the moral and basic purposes of education.

Senator ELLENDER. Why should there be objection if you get the same facilities? It is just the idea of you wanting to associate—that is what you want, to be put on the same social basis as the white people. Is that not true?

Mr. RANDOLPH. What sound objection is there to that? In other words, the Negro people are opposed and resent all forms of insult and segregation as a basic form of insult, and, as I aforesaid, merely establishing schools is not always the true mark of progress. You make progress when you make men and women conscious of their human dignity and conscious of the service that they must play in society, not to Negroes alone, but to all men, and America will never be great until America is aware of that fact.

Senator ELLENDER. Well, I venture this, and I have argued it on the Senate floor, that if you give to the colored people political equality, it is bound to lead to social equality, and social equality to the degradation of our race, and I will repeat that warning as long as I have human breath to do so, and I can prove its truth historically.

Mr. RANDOLPH. Then you believe in the slavery of the colored people.

Senator ELLENDER. I don't; but I don't believe in social equality under any conditions.

Mr. RANDOLPH. If you deny the people the right of suffrage, what does that amount to? They are not citizens.

Senator ELLENDER. I was in Egypt last July, and I saw an evidence of what an amalgamation of the colored people and Egyptians did to the Government of Egypt. There was the result of a mixture of races. The Egyptians were Aryans to a large extent and the African Ethiopians came to Egypt as slaves and mingled and associated with whites through the years and intermarried. In less than 500 years there was a mulatto at the head of the Egyptian dynasty, and with that the downfall of Egypt followed.

Mr. RANDOLPH. In the first place, I don't consider you a qualified anthropologist to pass on Egyptian civilization, and in the second place—

Senator ELLENDER. But I am a pretty good observer.

Mr. RANDOLPH. But you cannot base anthropology on just mere observation. You have got to have a knowledge of the history and science.

Senator ELLENDER. As a comparison, Africa is as old as America—why did the Negro not progress there?

Mr. RANDOLPH. Just a minute, if you please. There is no such thing as a pure race in the world. [Laughter.] Now every anthropologist who has the slightest respect for his name takes that position, and what you are reciting is only a myth.

Senator ELLENDER. Brazil was discovered before the United States, but because the Europeans who came there intermarried with the Indians and the colored people who were there, or who were brought there afterward as slaves, what is Brazil's status today? Its rank among nations doesn't amount to anything insofar as progress is concerned. And what made America great is, I believe, the leadership of the white race.

Mr. RANDOLPH. That is a mere assumption without any basis of science whatsoever, and, as a matter of fact, there is no first-class scientist that would think about entertaining the view that you expressed here today, none whatever, no scientist of any standing. Why, those mythological ideas have been discarded and exploded years and years ago. There is not a single school in this country that has any standing at all that would permit a professor to teach such a mythological absurdity such as you presented here, absolutely not one.

Senator ELLENDER. But the situation that now exists is proof of the facts. For another instance, consider Haiti's history. You are familiar with the history of Haiti, I am sure.

Mr. RANDOLPH. Of course.

Senator ELLENDER. You recall when Napoleon gave the Haitians their freedom. Before that time, 50,000 white Frenchmen controlled the destinies of over half-a-million colored, but when they turned them loose, there was anarchy and revolution and it is there now, in a much lesser degree, however.

Mr. RANDOLPH. What about America itself? America had anarchy during the Civil War, even though you had it years and years preceding the Civil War.

Senator ELLENDER. Well, it was because of the colored issue.

Mr. RANDOLPH. What about the World War we just had?

Senator ELLENDER. We had anarchy in this country because of the colored issue, and if ever—

Mr. RANDOLPH. Just a minute. You had anarchy during the Second World War throughout the world.

Senator ELLENDER. Of course, when you have greedy people, you are going to have them demanding more than their just rights, but I am speaking now of the progress of Negroes.

Mr. RANDOLPH. One of the finest civilizations in the world grew up in Africa.

Senator ELLENDER. Where is it?

Mr. RANDOLPH. All over Africa. I haven't the time to go through the history and the anthropology of it.

Senator ELLENDER. If you mean Egypt, that was true.

Mr. RANDOLPH. Not only in Egypt, but south of the Sahara Desert. You have hundreds and millions of Negroes who have given birth to some of the finest forms of civilization the world has even seen. Now, of course, I can recommend to you some of the treatises to read.

Senator ELLENDER. I would like to get them.

Mr. Chairman, before you started testifying, I thought I could find the article in full to which I referred. The article appeared in the American in its issue of January 1943 by Mr. William H. Birne. It is the American Magazine. I presume it is the American Magazine, and I will ask permission to get it from the Library of Congress tomorrow so that we can get the quotations which I referred to, as that was identified by the writer of this article as coming from Randolph.

Mr. RANDOLPH. Are they quotations?

Senator ELLENDER. Yes; quotations from you; that is, they were indicative of having been spoken by you in the article.

Mr. RANDOLPH. Then I want to say to Senator Ellender that I don't know you too well to have you calling me Randolph.

Senator DONNELL. Just a minute. The committee will proceed.

Senator ELLENDER. You wouldn't expect me to call you "Mr. Randolph"?

Mr. RANDOLPH. Nothing but that.

Senator DONNELL. Senator Ellender has the right to introduce this and will be accorded that privilege. I want to ask the witness this: Have you seen the article to which he refers?

Mr. RANDOLPH. I don't know that I have.

Senator DONNELL. Was it the American?

Mr. RANDOLPH. This is a magazine called the American.

Senator DONNELL. But you don't know whether that is this one or not?

Mr. RANDOLPH. No.

Senator DONNELL. You haven't seen the article?

Mr. RANDOLPH. No.

Senator DONNELL. Is the quotation set forth in that?

Senator ELLENDER. Not in its entirety. They are not in full. I would prefer having Randolph's statement in full.

Mr. RANDOLPH. I want to say for the record, Mr. Chairman, that I think it is below the dignity of anyone who is a Member of the

Senate to refer to a witness who is testifying before a committee by his name without using "Mister."

Senator ELLENDER. I ask that the last sentence be stricken from the record. [Demonstration in the audience.]

Senator DONNELL. Just a minute. We are going to have some order here in this committee, and you will observe the requirements of the chairman.

Mr. RANDOLPH. I want some respect.

Senator DONNELL. You are getting respect and we are going to get order in this committee, and you will not speak in this committee while the chairman is speaking or any other Senator is speaking. What is your motion, Senator?

Senator ELLENDER. I ask that the latter part of his statement be stricken from the record. It has no place in the record.

Mr. RANDOLPH. I insist it remain in the record, Mr. Chairman, and I believe the chairman has a sense of fairness and will insist upon it.

Senator DONNELL. I think I will allow it to stay in the record to show the entire colloquy. The motion is overruled. Proceed. But I want to say this, if I may interrupt you just a moment, that I shall expect order and respect to the Members of this Senate committee, and I want to say that Senator Ellender is one of our very highly respected Senators. He is entitled to his view. He comes from a section of the country from which I well understand the basis of his view, whether I agree with it or whether you agree with it. Senator Ellender is entitled to the respect he has in the Senate and to

¹ On July 22, 1947, the subcommittee in executive session voted to strike the next succeeding sentence of the witness' testimony from the record. The official minutes of that action follow:

3. Upon the motion of Senator Ellender, the subcommittee voted to strike from the record the second sentence of a statement by Mr. Randolph appearing on page 243 of the transcript for June 11. The vote on the resolution to strike was as follows:

Aye:	Nay:
Ives	Donnell
Smith	
Murray	
Ellender	

With respect to that motion, Chairman Donnell wanted the record to show the following:

1. That he agreed that said sentence by the witness was an improper statement.
2. That the principal reason for his voting against the motion to strike was that there would be no record to indicate what material had been stricken from the record.

SEPTEMBER 19, 1947.

Mr. PHILIP R. ROSENBERG,
Clerk of Committee on Labor and Public Welfare,
The Capitol, Washington, D. C.

DEAR MR. ROSENBERG: The words appearing in the last four lines of the first page of your letter of July 29, 1947, sent to Mr. A. Philip Randolph, etc., copy of which you sent me, are as follows:

"That the principal reason for his voting against the motion to strike was that there would be no record to indicate what material had been stricken from the record."

In said words the words "the principal reason" mean my principal reason. Although it is your recollection that I stated to you that the fact that there would be no record to indicate what material had been stricken from the record was my main reason, although I wasn't sure it was my sole reason, for voting against the motion, I am, on reflection, of the opinion that my sole reason for voting against the above-mentioned motion to strike was that I thought there would be no record to indicate what material had been stricken from the record. I may, however, at the time of my vote have known—though I am not sure that I did then know—that the typewritten transcript would continue to include the sentence so stricken even if the printed copy of the proceedings would not do so.

There are enclosed two copies of my letter of today to Mr. Marshall Reymier, 8006 Champlain Avenue, Chicago 18, Ill.

I shall be obliged if you will attach to the minutes of the executive meeting held July 22, 1947, by the subcommittee which has considered S. 984 a copy (herewith enclosed) of this letter.

Please also send to the above-mentioned Mr. Randolph (a) a copy (herewith enclosed) of this letter and (b) one of the two enclosed copies of my letter today to Mr. Reymier.

Yours very truly,

FORREST C. TRIMMELL.

the confidence he has in the Senate, and not only as a Member of the Senate, but of the public at large.

Now we will proceed with the testimony and we will try to confine ourselves as best we can to the issues here involved. I would like to ask this question, though, if I may, and that is this. You have spoken about matters of anthropology and knowledge of literature and knowledge of this civilization in Africa. Now you referred also to your schooling in Florida. Would you tell us, please, what has been your schooling?

Mr. RANDOLPH. My schooling, including going to City College of New York?

Senator DONNELL. How long were you in the City College of New York?

Mr. RANDOLPH. About 3 years.

Senator DONNELL. Did you take a degree there?

Mr. RANDOLPH. No.

Senator DONNELL. Did you study anthropology?

Mr. RANDOLPH. Anthropology, political economy, then took courses in various other schools, Cooper Union, and so forth. I made a specialty of anthropology and political economy.

Senator DONNELL. Are you able to give us the name of any book that will tell us of the civilization which you refer to?

Mr. RANDOLPH. Yes. Franz Boas.

Senator DONNELL. Where is Mr. Boas located?

Mr. RANDOLPH. He was professor of anthropology in Columbia University 4 years.

Senator DONNELL. Is he a brother of Dr. Ernest Boas?

Mr. RANDOLPH. I don't know that he is, but then there is Herscovitz, who is an eminent anthropologist.

Senator DONNELL. And do those gentlemen have their books tell of this civilization in Africa?

Mr. RANDOLPH. That is right, and I will refer other books to the committee.

Senator DONNELL. Very well. We will be glad to have those references. Thank you for sending it to the clerk of the committee.

You may proceed.

Mr. RANDOLPH. Now bill S. 984 does not seek to make white workers, black workers, or Jewish, or Catholic workers love each other, but to respect each others' rights to work and to live. It would outlaw employer exploitation of prejudice by outlawing discrimination in employment. It would be unlawful to play white against black, Protestant against Catholic, Anglo-Americans against Spanish-speaking Americans, and vice versa.

It is well nigh axiomatic that the instinct to live in human beings, regardless of race or color, religion or national origin, is so strong that they will fight for the right to work in order to live.

Hence, it is apparent that racial, color, and religious conflict may beset and plague our country as a result of increased tensions incident to discriminations in employment relations, unless the Congress shows the social vision and wisdom to enact S. 984. For this reason, the enactment of this bill will play an effective and constructive role in achieving social peace in our various communities in the postwar era.

Without fair employment to supplement and complement full employment, the poison of Hitler's fascism may get into the blood stream

of our country and run to the heart of our Nation. In very truth, there cannot be full employment unless there is fair employment. This is true not only with respect to numbers but also in relation to the utilization of the skills of the minorities and it is apparent that there cannot be fair employment without a fair employment law with enforcement powers.

Senator ELLENDER. In respect to your full employment statement, Randolph—

Mr. RANDOLPH. I still resent that usage, and I want that to be known.

Senator ELLENDER. Yes; and I am going to keep on calling you Randolph. Some time ago, I think it was yesterday or the day before, I saw in some local paper a statement to the effect that employment had reached its highest peak, something over 58,000,000. Do you know of any other period when more people were employed in any greater number? Fifty-eight million is the highest record in the history of our country.

Mr. RANDOLPH. Well, I understand from reports from organizations such as the YWCA, YMCA, and trade-unions that there is already now an increasing unemployment line at the various employment offices, and it is roughly estimated that throughout the country at the present time there are about three or four million people unemployed at this very time. In New York City alone, the relief rolls have increased.

Senator ELLENDER. Isn't that the average run of unemployed? In other words, you must realize that when we say peak of employment, there is always a floating population of a million and a half to two and a half million who are not employed. They are either traveling or doing something else not listed as work. In other words, we have a constant floating unemployed population.

Mr. RANDOLPH. That is right. You have what is known as residual unemployment.

Senator ELLENDER. Yes. Other than that, isn't it true that we have today very few unemployed who are qualified and desire work?

Mr. RANDOLPH. A very good number. For instance, we got a report, our national council did, from Seattle, Wash., that at the present time, 80 percent of the Negroes are unemployed, following the old pattern of being the first fired and the last hired, 30 percent of the Negroes in Seattle, Wash.

Senator ELLENDER. Well, that is because, I believe, of the large migration to Seattle during the war.

Mr. RANDOLPH. That isn't the basic reason. The basic reason is that Negroes are first fired. They are laid off first.

Senator ELLENDER. But I say they are in the nature of newcomers. They are transients. Isn't it a fact that it is because of the influx of the colored people who came there during the war and who remained, and wouldn't it be natural for an employer to keep on his pay roll those of the old inhabitants who were already there?

Mr. RANDOLPH. No. There was an influx of white people along with the Negroes, too.

Senator ELLENDER. You don't mean to say that all of them were employed.

Mr. RANDOLPH. Well, the whites came into Seattle along with the Negroes, but the ratio of unemployment among the Negroes is greater

than among the whites, and it is due to the fact that discrimination has operated in the case.

Senator ELLENDER. Well, do you know the percentage of whites who went into Seattle in contrast to the colored?

Mr. RANDOLPH. I don't know the exact percentage.

Senator ELLENDER. Don't you think that that would be a fair way to measure it?

Mr. RANDOLPH. Well, the outstanding fact is this unusual unemployment among the Negroes, and it is unquestionably the consequence of the fact that Negroes are first fired, but it isn't due to the fact they are newcomers alone, because the whites were newcomers, too.

Senator ELLENDER. When you say 30 percent, do you mean 30 percent of the colored were fired?

Mr. RANDOLPH. Were unemployed at the present time.

Senator ELLENDER. Well, would that number constitute the greater portion of the colored who migrated there during the war?

Mr. RANDOLPH. I wouldn't say it applied only to those who migrated there, but it just shows that the war gains that Negroes were counting upon are now being washed away, and that is the reason why this fair employment bill is so necessary.

Senator ELLENDER. Well, now, do you know—if you don't, we might get it from some other source—but do you know the colored population in Oregon?

Mr. RANDOLPH. Yes. I think in Portland is where the bulk of the Negro population is. I think at the present time they have about six or seven thousand.

Senator ELLENDER. Do you know what percentage of those are employed?

Mr. RANDOLPH. No; I don't know exactly, but there has been an increasing number of unemployed Negroes in Portland, too. I just came from the Pacific coast.

Senator ELLENDER. Do you know whether or not this six or seven thousand represents an increase over what it was before the war?

Mr. RANDOLPH. Yes.

Senator ELLENDER. To what extent?

Mr. RANDOLPH. To a considerable extent. I just want to leave this thought with you, Senator, that the Negroes were not the only people who migrated to the cities of the Northwest or to the cities of the North or the East. The whites in the South migrated to those places, too. For instance, you go to Detroit and you will find in the various automobile factories a large number of southern people who came along with the Negroes. Hence, it was not a movement of Negroes alone. It was a movement of people from the South into the northern areas. But the point I am making here is that the Negroes are the chief victims when the reduction in force begins. In other words, they are first fired.

Senator DONNELL. May I make an inquiry for a moment as to the approximate length of the testimony yet to be given by the witness and the cross-examination?

Senator ELLENDER. I am through, Senator. I will get the information I referred to.

Senator DONNELL. And I would suggest that the clerk send Mr. Randolph a statement describing where the article is to be found, that

he shall likewise, if he desires, file an answer to the article. That is fair, isn't it, Senator?

Senator ELLENDER. Perfectly all right.

Mr. RANDOLPH. That is fine.

(Excerpts from the American magazine article referred to follow:)

EXCERPTS FROM ARTICLE ENTITLED "BLACK BRAIN TRUST," WRITTEN BY WILLIAM A. H. BUNIE, WHICH APPEARED IN THE JANUARY 1943 ISSUE OF THE AMERICAN MAGAZINE

It had been a red-letter day for a powerful organization, hereto unpublished, known as the black brain trust.

This black brain trust consists of about 25 Negro leaders who have assumed command of America's 13,000,000 Negroes in their fight for equality. They hold informal meetings to plan their strategy, whether it is to defeat a discriminatory bill in Congress or to overcome prejudice against a black private. Few white men know it, but they have already opened a new front in America—a front dedicated to the liberation of the dark races.

Some white leaders accuse them of "taking advantage of the war." They boldly admit it, insisting that if this is a war for liberty they want theirs. They argue that their fight serves the American cause on two fronts: It will put an end to the apathy of many Negroes toward a war in which they say they have no real stake, and it will secure America's position abroad among the black, brown, and yellow peoples of Central and South America, India, Malaya, Burma, and China.

The final objective of the black brain trust, as outlined to the author of this article, is economic and political equality for Negroes—total abolition of "second-class citizenship." But the immediate program embraces this eight-point program.

Probably the most telling action of the black brain trust led to the second Presidential Executive order dealing with Negroes in American history, 74 years after the first—President Lincoln's Emancipation Proclamation.

Early in 1941 Negroes throughout the country were grumbling about their exclusion from defense jobs. The "brain trusters" decided to take direct action. A. Philip Randolph, president of the International Brotherhood of Sleeping Car Porters, an A. F. of L. union, with about 11,000 Negro members, proposed a mass march on Washington. Soon there were reports that an army of 50,000 Negroes would march on the capital and picket the White House on July 1.

As the dead line approached, politicians put the screws on Randolph. "Don't do it," they argued. "You'll just inflame southern Senators and you'll be worse off than ever." A few years back that argument probably would have prevailed, but Randolph was adamant.

"The march must go on," he said. "I am sure it will do some good." Finally, President Roosevelt himself summoned Randolph, White, and several other Negro leaders to the White House. Besides the President, Secretary of War Stimson, Secretary of the Navy Knox, and key officials of the then existing Office of Production Management attended the conference.

Randolph told his story bluntly. He reported that doors of defense plants were being closed to Negro workers, and feelings were running high. He wanted a Presidential antidiscrimination order with teeth in it. A few days later, Randolph was called in again and shown the draft of an order committing defense industries only. "Not enough," said Randolph, in effect. Unless the order included Government agencies as well as defense industries, he was sorry but the march would take place as planned. The Negroes stood pat, and the administration gave ground. Executive Order 8802 was issued:

"... that it is the policy of the United States to encourage full participation in the national defense program by all citizens in the United States, regardless of race, creed, color, or national origin . . . that all departments and agencies of the Government concerned with vocational and training programs for the defense production shall take special measures appropriate to assure that such programs are administered without discrimination, . . . and that all contracting agencies of the Government shall include in all defense contracts hereafter negotiated by them a provision obligating the contractor not to discriminate."

"It was purely a knock-down-drag-out affair," Randolph told me when I talked with him in his union office above a drugstore in a Harlem loft. "I don't want any one to think I called off that march on Washington permanently. That's still our ace in the hole. We could rally thousands of Negroes to stage it next week."

(Mr. Randolph's communication follows:)

NATIONAL COUNCIL FOR A PERMANENT FAIR
EMPLOYMENT PRACTICE COMMITTEE.
Washington 4, D. C., September 15, 1947.

Mr. PHILIP R. RODGERS,
Clerk of the Committee on Labor and Public Welfare,
The Capitol, Washington, D. C.

DEAR MR. RODGERS: This will acknowledge receipt of your recent letter regarding testimony to be included in the record at the request of Senator Ellender which purports to be an excerpt from an article in the American.

You may include this insertion without objection or comment from me.

Sincerely yours,

A. Philip Randolph,
A. PHILIP RANDOLPH,
Co-Chairman.

APR/EH

Senator DONNELL. I see it is approximately 23 minutes after 5, but I am not hurrying you. I want to say this, that I want to make a plan of just about when we can adjourn for the day, but you go right ahead.

Mr. RANDOLPH. For the clarification of our own thinking and, we hope, for the convenience of the committee and other Members of the Congress and the public, we have prepared a comparison of S. 984 with S. 101, and this is the statement, Senator, which was prepared by some of the members of our legal committee, especially Mr. Delson. Now we would like to have Mr. Delson appear here to discuss the differences in those bills for the benefit of the committee. He worked and cooperated with other lawyers, with Lawyer Tuttle, who wrote the bill, so that he knows the bills from beginning to end and is quite qualified to discuss the constitutional aspect and the various phases of the bill.

Senator DONNELL. Now as to the matter of the exhibit which the witness has handed in, it will be received and filed with the records of this committee. As to whether or not it will be printed will depend upon the judgment of the committee. I may say in that connection so that the witness may understand this is not an arbitrary ruling. Our own staff has prepared a comparative print of S. 101 and S. 984 which is printed, and, naturally, we do not want to duplicate the work; so that it will be understood this will be received for the files and that the committee will use its best judgment as to whether it shall be printed.

Now as to the matter of the appearance of this gentleman to whom you refer, I am unable to give you any information on that at this time. I may state that, as announced at the outset this morning, it was stated by myself in the Senate on May 6, 1947, that it is hoped that the hearings may be completed in a period of 6 days, consisting of June 11, 12, 13, 18, 19, and 20. The time limitations are such that we can't hear everybody, but we would be very glad to have a written statement from this gentleman, if he cares to furnish it, and I am not going to make any promise as to whether we will be able to take him in person. But if you will give us his address—do you know what that is now?

Mr. RANDOLPH. Max Delson, 270 Broadway.

Senator DONNELL. His name and address are noted, and the committee will determine whether or not it is practicable to have him in person, but I can assure you now that if he will send in a written statement of his views with respect to the bill, the statement will be received, and I assume it will not be of undue length; if it is, in the opinion of the committee, of reasonable length as other witnesses' statements are, that it will likewise be printed in full in the proceedings of the committee.

I will ask Mr. Rodgers, the clerk, to bear in mind this name and address and to call the request to the attention of the chairman of the subcommittee in due time so that we may determine whether or not it shall be complied with.

Mr. RANDOLPH. My own conviction is that the establishment of fair employment as the pattern and practice in American industry and business will be the greatest liberating force since the abolition of chattel slavery. With its establishment, the achievement of genuine economic democracy becomes a possibility. And, at this moment in the history of mankind's efforts to find and keep freedom, the actual practice of fair employment here will give the United States of America reinforced moral leadership of the world.

Our people have had a vision of freedom for 300 years. They have enjoyed some freedom. During the war, under the FEPC, they had a taste of a greater degree of freedom, of more nearly equal opportunity. They will never let that dream of freedom go. They will hope for it, pray for it, work for it, and vote for it.

Our plea today is that this committee and this Congress will let that dream come true so that we and all people in this troubled Nation and this desperate world can pass over into that promised land of abundance fairly shared among freemen, secure in employment and opportunity and at peace with one another.

May I conclude, Mr. Chairman, by expressing the view of the council on the proposal of Senator Smith for the exception of the South from the application of the complete provisions of this bill?

Senator DONNELL. That is, of the punitive provisions?

Mr. RANDOLPH. Yes. We would consider that as the worst type of form of discrimination that could be imposed upon the South or the Negro people or the white people.

Senator DONNELL. Mr. Randolph, may I interrupt you at this point? Are you presenting your own opinion or has this particular proposition been considered by your organization?

Mr. RANDOLPH. It has been considered. We talked about, for instance, the matter of quotas, and this is comparable to the idea of quotas.

Senator DONNELL. I mean the specific proposition.

Mr. RANDOLPH. This specific proposition has not been gone over.

Senator DONNELL. But you are giving us what is your own personal opinion and what you think is the opinion of your organization.

Mr. RANDOLPH. Yes. I shall regard it as a form of legalized secession because it would give to the South a privileged position in the law and the economy of the country and it would have a baneful effect in that it would bring about an outmigration of peoples in the South from those communities into those areas where they get protection to

work, and, consequently, you would have an unbalance of labor relationship. As a matter of fact, you would have an unregulated flow of labor from one area to the other which would operate not only to turn down wages in one community, but to deprive industry and agriculture of labor in another.

Senator DONNELL. Do you think it would bring about an influx of other labor into the South and thereby depress the conditions among the Negro labor in those sections?

Mr. RANDOLPH. And depress industry and agriculture in the South. In other words, you would set up a condition whereby the South, which needs labor, would be deprived of the type of labor which has helped to build the South. The policy would practically upset the economic and social relationship of the entire country because you would be beginning an unprecedented policy of adopting favoritism in the law to sections of the country, and it would create a moral climate which would make for tension and antagonism and hostilities that would break up and threaten social peace. I can't think of anything which would be more dangerous. It is a dangerous rationalization and I don't think it is tenable. As a matter of fact, I think it is unconstitutional.

I recall that in Senator Ellender's own State during the war, when labor agents were going around recruiting labor forces, they were halted in various sections of Louisiana; I know it obtained in Alabama, Florida, wherever these labor agents went to get workers, and carry them into the various industrial centers where the war plants were, why strenuous efforts were being made by law-enforcement agencies to prevent these workers from leaving those sections of the country.

I don't know whether Senator Ellender himself will agree to such a proposal in view of the effect it will have on the economy of Louisiana and all of the southern communities.

Senator ELLENDER. That restriction was not only in the South; it was all over the Nation. I remember distinctly in various other States when they were recruiting men to work at Oak Ridge and at another place where the atom bomb was being manufactured, that there was a huge cry from various sections. The protest was not only in the South.

Mr. RANDOLPH. That is true, but especially in the South. I just want to leave this word: that it is uneconomical, it is unsound, undemocratic, and un-American, and, of course, the National Council for a Permanent FEPC will strenuously oppose it, and I want to request permission of the chairman to submit a brief on this particular proposal expressing the position of the council.

Senator DONNELL. How soon can you get that filed, Mr. Randolph?

Mr. RANDOLPH. We will be glad to get the brief to you before the hearings are ended.

Senator DONNELL. Fine. We will be very glad to have it. It will be received for the files and the committee will use its best judgment as to whether to publish it. We feel that we should safeguard the expenditure of funds as much as possible, but we will be very glad to have it, and if we conclude that it shall be published, we will do so.

In view of the fact that I asked about the matter of time, I see it is now approximately 27 minutes of 6. I think it is reasonable to

recess at this time, but I want to say to Mr. Randolph that if he has not completed his testimony, we will be glad to have him continue with it tomorrow morning at 9:30. I would like to know now whether or not he desires any further time, so that I may figure accordingly.

Mr. RANDOLPH. Well, no, Mr. Chairman. I must return to New York tonight, but I am sorry that we can't have Mr. Delson utilize some of the time in giving the committee an analysis of these bills from the various angles that I am sure you are interested in.

Senator DONNELL. I understand, however, that you have completed your testimony. Is that right?

Mr. RANDOLPH. I have completed my testimony; yes, sir.

Senator DONNELL. Well, that will be all this afternoon. We stand recessed until 9:30 tomorrow morning.

(Mr. Randolph submitted the following brief:)

STATEMENT IN SUPPORT OF S. 984, A BILL ESTABLISHING A NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT, PRESENTED TO THE SUBCOMMITTEE OF THE SENATE EDUCATION AND PUBLIC WELFARE COMMITTEE, WEDNESDAY, JUNE 11, 1947, BY A. PHILIP RANDOLPH, COCHAIRMAN OF THE NATIONAL COUNCIL FOR A PERMANENT FEPC

1. THE BREADTH OF SUPPORT FOR S. 984

I appear in support of the Ives-Clayton bill (S. 984) as cochairman of the National Council for a Permanent FEPC and as president of the International Brotherhood of Sleeping Car Porters, A. F. of L.

The National Council for a Permanent FEPC has as its single purpose the promotion of enactment at the earliest possible date of a Federal law against discrimination in employment and for the establishment of fair employment practices throughout the Nation. In compliance with the Reorganization Act, we have filed with the Secretary of the Senate statements of our receipts and expenditures and these statements are open to public inspection.

For the information of the committee and for the record I would like to present at this point a list of our officers and board of directors:

Cochairmen: Dr. Allan Knight Chalmers, A. Philip Randolph.

Board of directors.—Roger N. Baldwin, director, American Civil Liberties Union; Miss Linna E. Bressette, National Catholic Welfare Conference; James B. Carey, secretary-treasurer, Congress of Industrial Organizations; Rev. J. Henry Carpenter, Ashby B. Carter, Postal Alliance; Leo M. Cherne; Robert R. Church; Max Delson; Thurman L. Dodson; Melvyn Douglas; Mrs. Elsie Effenbein, executive director, National Council of Jewish Women; Edwin R. Embree, president, Julius Rosenwald Fund; Henry Epstein, chairman, National Community Relations Advisory Council; Judge Gerald F. Flood; Ernesto Galarza, William I. Gibson, editor, Afro-American newspaper; Rabbi Sidney E. Goldstein; Lester Granger, executive secretary, National Urban League; Bishop J. A. Gregg; John Green, president, Industrial Union of Marine and Shipbuilding Workers; William Green, president, American Federation of Labor; Most Rev. Francis J. Huns, D.D., Bishop of Grand Rapids, Mich.; Dr. Cameron Hall, executive secretary, department of church and economic life, Federal Council of Churches; Lucius Harper, national editor, Chicago Defender; Adolph Held, president, Jewish Labor Committee; Sidney Hollander; George K. Hutton, executive secretary, Catholic Interracial Council; Mrs. Thomasina W. Johnson; Alfred Baker Lewis; Ira F. Lewis, president, Pittsburgh Courier Publishing Co.; Mrs. Bulwala Lipper; R. F. McLaurin, Brotherhood of Sleeping Car Porters; Morris Milgram, executive secretary, Workers Defense League; Isaiah Minkoff, executive director, National Community Relations Advisory Council; Nathaniel Minkoff; Frank Goldman, president, B'nai B'rith; Philip Murray, president, Congress of Industrial Organizations; Cecil E. Newman, editor and publisher, Minneapolis Spokesman and St. Paul Recorder; Mrs. Dorothy E. Norman; Shad Polier, American Jewish Congress; Jacob S. Potofsky, president, Amalgamated Clothing Workers, CIO; Judge Joseph Proskauer, president, American Jewish Committee; Mrs. Winifred Hunsenbush; Walter P. Reuther, international president, United Automobile Workers, CIO; Col. Milton Richman, national commander, Jewish War Veterans; G. Howland Shaw; William Jay Schleffelin;

Boris Shitskin, American Federation of Labor; Mrs. Harper Sibley, president, United Council of Church Women; Max H. Sorenson; Roderick Stephens; Willard S. Townsend, international president, United Transport Service Employees, CIO; Frank Trager, Anti-Defamation League; Noah Walter, Jr.; Phillip Weightman, international vice president, Packinghouse Workers Union, CIO; Walter White, executive secretary, National Association for the Advancement of Colored People; J. Finley Wilson, grand exalted ruler, IBPOEW; Dr. Stephen S. Wise, president, American Jewish Congress; Samuel Wolchok, president, Retail, Wholesale, and Department Store Union, CIO; Max Zaritsky, president, United Hatters, Cap, and Millinery Workers International Union, A. F. of L.; Charles S. Zimmerman, vice president, International Ladies' Garment Workers' Union, A. F. of L.

As will be noted from the list, the national council represents a coming together of labor, religious, minority, civic, and welfare leaders, groups, and organizations who are sincerely and wholeheartedly convinced of the need for such legislation as is here proposed.

In the course of these hearings a number of these representatives will appear in support of S. 984.

Speaking for the National Council for a Permanent FEPC, we wish to register our wholehearted endorsement and support of this bill and respectfully to impress upon the committee the dire need for its enactment at the earliest possible date. It is with this thought in mind that we have limited the number of our witnesses and the length of testimony. Similarly we have urged on cooperating groups and organizations the need for economy of time so that the hearings may be speedily completed, thus permitting an early report to the Senate. The overwhelming sentiment for enactment of such legislation, coming from the organized conscience and enlightened self-interest of a majority of the American people, has been demonstrated at previous hearings on earlier fair-employment bills. The same sentiment will, I am sure, be made evident in the course of the hearings beginning today.

FREEDOM REQUIRES FAIR EMPLOYMENT

Mr. Chairman and members of the committee, it is said that comparisons are invidious. Therefore I will not state that enactment of S. 984 is most important and most urgent for the more than 20,000,000 members of minority groups who are at present discriminated against and for the other wage earners, farmers, and businessmen whose buying power and markets are depressed by such discrimination.

Beyond and above this issue of economic justice, there are the issues of moral and social justice to which reference has been made.

Fundamentally the issue is freedom—practical, day-to-day freedom—made real by equal opportunity for employment. Only as we establish this principle of fair employment in actual practice will we have freedom from want, freedom from fear, and freedom of religion. So long as one man or one group, or one race or creed or color, is not free, no man is wholly free. The bell tolls for all or none.

This is particularly true in our modern industrial civilization. Unless certain minimum standards of human decency and fairness of opportunity and treatment in employment are set and enforced, Gresham's law begins to work. Base money drives out good, base standards of employment and discrimination tend to drive out or drag down decent standards that have been established by fair employers and by labor unions through collective bargaining and by education within their own ranks. The penalties must be laid, not upon the majority of fair employers and unions, but upon the unfair and stubborn few.

So let it at least be said that, for the freedom and welfare of minorities and equally for the freedom and welfare of all Americans, no other bill is more important, more urgent than this proposal.

III. FAIR EMPLOYMENT IN WAR; DISCRIMINATION AFTER VICTORY

Its importance as a domestic matter within our own Nation, our own economy and our own welfare and tranquillity has been recognized for years. Eloquent and irrefutable testimony on this point will be presented in the course of the hearing as it has been at earlier hearings on this subject.

As a domestic issue, the most significant and ironic fact is that to win the war we had a measure of fair employment, but now, in the peace for which we fought and worked, that first small pilot operation has been destroyed—destroyed by the act of the Seventy-ninth Congress. And, although a majority of the Members of

both Houses were known to favor permanent fair employment legislation, no effective action has been taken to continue in peace what was so well begun in war. Today we have veterans of minority groups honored and decorated as heroes, returning to a civilian life in which the old patterns and practices of discrimination have returned with brutal, degrading, and divisive force. They are finding they can't eat the fruit salad on their jackets.

For these veterans and for all the millions who suffer the injury of discrimination in employment inflicted anew each and every working day of their lives, this bill represents the hope that this Eightieth Congress will not short-weight the war aims and the wartime sample of freedom from discrimination in employment represented by the FEPC.

The damage which discrimination in employment does to democracy as an ideal and as a way of life is great and in large measure irreparable. Discrimination in employment damages lives, both the bodies and the minds, of those discriminated against and those who discriminate. It blights or perverts that healthy ambition to improve one's standard of living which we like to say is peculiarly American. It generates insecurity, fear, resentment, division, and tension in our society.

IV. THE HIGH COSTS OF DISCRIMINATION; THE PROFITS OF FAIR EMPLOYMENT

In addition to this damage to the national well-being, discrimination in employment, as I have indicated, keeps in motion a vicious circle in our economy. Such discrimination depresses wages for minority groups and, because of desperate competition for jobs by members of these minority groups, discrimination in employment exerts a downward drag on all wages. This, in turn, cuts mass purchasing power and thereby constricts the market for all goods and services.

The circle then begins another round as reduced markets cut production; reduced production cuts employment; reduced employment cuts wages, and, in the absence of effective standards of fair employment, tends to increase and aggravate the very discrimination in employment which set the vicious circle in motion. This is the road of depression, division, and disaster.

Mr. Walter White, the executive secretary of the National Association for the Advancement of Colored People, recently estimated that the share of some 14,000,000 Negroes in the national income was in the neighborhood of 10 to 12 billion dollars a year. A recent compilation by Mr. Boris Shishkin, economist for the American Federation of Labor, of figures on weekly income differentials between white and Negro veterans in 26 American cities showed that white veterans' income ranged from 80 percent above the income of Negro veterans in Birmingham, Ala., to a high of 78 percent in Jackson, Miss. I wish to offer for the record at this point a statement by the National Council for a Permanent FEPC calling attention to the shocking differentials and including the compilation prepared by Mr. Shishkin from a survey made by the Bureau of the Census and the Bureau of Labor Statistics for the National Housing Agency. (Text attached.)

A considerable part of these income differentials, which may fairly be considered typical for all wage earners in the cities covered and indicative of the national pattern, is chargeable directly to discrimination in employment. Other factors are lack of educational opportunities, vocational training, and opportunities for employment experience, upgrading, and promotion. All these factors, however, largely stem from the basic evil of discrimination in employment which, back over the years, cut school attendance, vocational training, and on-the-job work experience. In short, most of the income differential between whites and Negroes is due, directly and indirectly, to discrimination in employment.

If discrimination in employment against Negroes could be replaced by fair employment practices tomorrow, it would appear that a direct increase in income to Negroes would amount to at least 4 to 5 billion dollars a year, using the differential percentages already cited.

If discrimination in employment against Negroes and all other minority groups were replaced by fair employment, the national income and market might be increased by 8 to 10 billion dollars. I recognize that this estimate is not susceptible of statistical proof but I believe it to be a reasonable and conservative estimate. In making it, I have, of course, made the assumption of a full production, high employment economy which is our national policy as expressed in the Employment Act of 1946 and in the platform of both major political parties.

This addition to the national income and markets for goods and services would not be at the expense of other wage earners, but would benefit them by

freeing them from the sweatshop competition of discriminatory wage rates based on race, religion, color, national origin, or ancestry. Industry, business, and the whole national economy would benefit. From the date this bill becomes effective and to the degree it is effective, the old vicious circle of discrimination in employment will be replaced by a new beneficent circle of fair employment.

Thus far I have discussed this bill as an important domestic need.

V. FAIR EMPLOYMENT HERE WILL STRENGTHEN UNITED STATES ABROAD

Let us now consider S. 984 in relation to our country's foreign policy and its role and standing in international relations. Section 2 (c) reads:

"This Act has also been enacted as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote 'universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.'"

Enlarging the focus of our attention to include the 2,000,000,000 people of the world—peoples of all races, religions, colors, national origins, and ancestry—it is, I think, accurate to state that the eyes of many hundreds of millions, particularly those of darker color, are fixed on this bill, along with other pending bills against discrimination, such as the antipoll tax and antilynching measures. Their eyes are on this hearing and its outcome, watching to see whether or not the fine words to which we put our hands and seal in the signing and ratification of the United Nations Charter are put to work here in the United States of America by enactment of this bill or are made an empty mockery by its defeat.

The State Department policy, as I understand it, is plain. Last year, in a letter to the expiring Fair Employment Practice Committee, the then Acting Secretary of State, Dean Acheson, wrote " . . . the existence of discrimination against minority groups in the United States is a handicap in our relations with other countries. The Department of State, therefore, has good reason to hope for the continued and increased effectiveness of public and private efforts to do away with these discriminations."

On March 14 this year, speaking to the Council of Foreign Ministers in Moscow, Secretary of State George C. Marshall redefined democracy. He said:

"To the American Government and citizens it (democracy) has a basic meaning. We believe that human beings have certain inalienable rights—that is, rights which may not be given or taken away."

"To us a society is not a democracy . . . is not free if law-abiding citizens live in fear of being denied the right to work or deprived of life, liberty, and the pursuit of happiness."

It is, I submit, plain that enactment and effective administration of this bill are necessary not only for our domestic well-being and the practice of democracy here at home, but also as proof that we practice in Washington and throughout the Nation the high principles to which we have subscribed at San Francisco, Moscow, and other international conferences.

Enactment is required to strengthen democracy within and without. We need to prove our faith by our daily works and thereby to make it a shining example that will enlist the allegiance of other peoples confronted with the choice between democracy and totalitarianism in the great show-down that now seems to be rushing upon the world.

The grim anxiety with which peoples in other lands regard the fate of this bill is heightened, I hardly need state, by recent occurrences here at home, such as returning discrimination in employment, increasing tension, outbreaks of mob violence against minorities, and lynchings, followed by failure or refusal to apprehend, bring to trial, and convict the persons and groups responsible.

Millions here in America will view the developments on this bill with the keenest interest. Some—I think the great majority—will watch with hope drawn taut to the breaking point by waiting and repeated disappointment. Others will watch with cynicism overlying a hope that has been almost destroyed by frustration and disappointment. But, great as is the anxiety of minorities here in the United States of America and of all Americans of good will who understand the importance of this measure, the anxiety of other peoples may be greater because their danger and their need are greater. Imperfect though our practice of democracy is, it is a fact that, because of our material strength and our promises to defend freedom and democracy, our Nation is regarded, more generally than ever before, as man's last best hope on earth.

In the enactment of this bill and such companion measures as the antilynching and anti-poll-tax bills, the Congress has the opportunity and, if we may say so, the responsibility for strengthening that hope. Thereby freedom and democracy will be made stronger here and throughout the world.

VI. S. 884 IS NECESSARY, FAIR, AND WORKABLE

The bill before you is necessary, is fair, is workable.

It is not an attempt to legislate against prejudice in the mind of man; it is a method for eliminating the act of discrimination in employment.

It is, in our judgment, carefully drafted to take advantage of experience gained in the operation of the wartime FEPC, of the criticism made of earlier fair employment bills, and of the high degree of success in the administration of State antidiscrimination laws in Massachusetts, New Jersey, and New York where a year's experience is now available.

In our view S. 884 is a fresh approach to the problem of insuring fair employment; a difference in degree and the introduction of new methods amount to a difference in kind.

Of course, provisions for enforcement have been kept in the new bill.

The procedures have been changed in conformity with the Administrative Procedures Act; unlike those proposed in earlier bills, they do not correspond to procedures under the National Labor Relations Act.

More important, as a matter of practical administration, emphasis has been put upon obtaining compliance by information, education, conciliation, and the assembly of local community good will in advisory councils.

Perhaps the most important single new provision calls for the posting in work places of facts about the law and the rights and duties of employers and labor organizations thereunder. Experience in the administration of other laws such as workmen's compensation, unemployment compensation, and the Fair Labor Standards Act shows that common knowledge of the law is the first step in obtaining general compliance.

While endorsing these new features, we hold that, if they are to have meaning and effectiveness, they must be backed up by provisions for enforcement in extreme and stubborn instances of violation. That is why the New York law, which is known for its use of voluntary methods, contains provision for enforcement. Were provision for enforcement to be removed from this bill, the remainder would be a fraud. It would be immediately recognized as such by all friends of fair employment. We have confidence that this committee and the Congress will see through and disregard all proposals to change this bill to a wholly educational measure.

VII. S. 884 AIMED AT THE ACT OF DISCRIMINATION IN EMPLOYMENT

S. 884 is not concerned with race or religious or nationality prejudice. It deals with only one thing, and that is the practice of discrimination on the grounds of color, religion, national origin, or ancestry, which deprives a worker of a job, or rather, his right to live, because on the job the worker receives wages, and with wages he buys food, clothing, and shelter, the basis of his life. Therefore, whoever seeks to prevent a worker from securing a job is seeking to deny him the right to live, which is a very definite nullification of the basic principles of the Declaration of Independence and the Federal Constitution.

It is a fallacy to confuse race prejudice as synonymous with racial discrimination. They are two different things. Race prejudice is an emotion or feeling. Racial discrimination is an act—a practice. While we cannot by law make a white employer or worker love a Negro worker, or a Protestant worker love a Jewish worker, or a worker in Boston love an employer or worker in Atlanta, Ga., we can stop employers and workers from closing the shops and the unions at the same time. Laws can stop hoodlums from smearing synagogues and cathedrals with swastikas. Laws can stop mobs from lynching people for any reason.

I do not condemn the trade-union workers who discriminate against Negro workers and other minorities. Fundamentally, black and white workers do not fight each other because they hate each other, but they hate each other because they fight each other, and they fight each other because they do not understand each other. But if they work together, they will understand each other.

Now, bill S. 884 does not seek to make white workers, black workers, or Jewish or Catholic workers love each other, but to respect each other's rights to work and to live. It would outlaw employer exploitation of prejudice by outlawing discrimination in employment. It would be unlawful to play white

against black, Protestant against Catholic, Anglo-Americans against Spanish-speaking Americans, and vice versa.

It is well-nigh axiomatic that the instinct to live in human beings, regardless of race or color, religion, or national origin, is so strong that they will fight for the right to work in order to live.

Hence, it is apparent that racial, color, and religious conflict may beset and plague our country as a result of increased tensions incident to discriminations in employment relations, unless the Congress shows the social vision and wisdom to enact S. 984. For this reason, the enactment of H.'s bill will play an effective and constructive role in achieving social peace in our various communities in the postwar era.

Without fair employment to supplement and complement full employment, the poison of Hitler's fascism may get into the blood stream of our country and run to the heart of our Nation. In very truth, there cannot be full employment unless there is fair employment. This is true not only with respect to numbers but also in relation to the utilization of the skills of the minorities and it is apparent that there cannot be fair employment without a fair employment law with enforcement powers.

For the clarification of our own thinking, and, we hope, for the convenience of the committee and other Members of the Congress and the public, we have prepared a comparison of S. 984 with S. 101 introduced in the Seventy-ninth Congress and with the New York State law against discrimination.

VIII. THE BROTHERHOOD OF SLEEPING CAR PORTERS, A. F. OF L., SUPPORTS S. 984

Before presenting this comparison for the record, I should like to add a few words as president of the International Brotherhood of Sleeping Car Porters, A. F. of L.

Our union has been one of the principal backers of the fair employment idea and of the National Council for a Permanent FEPC. In the past 20 years, we have achieved considerable success in promoting fair employment practices for our members. We have done so by union organization and exercise of the right of free collective bargaining with employers. We are proud that the American Federation of Labor, with whose 8,000,000 members we are affiliated through an international charter, has endorsed the principle of fair employment and the policies and methods proposed in this bill.

We have insisted, and shall continue to insist, that members of our organization, all Negroes, and all members of all minority groups shall have assured to them, as a civil right, the opportunity of employment and advancement on ability and merit without discrimination because of race, religion, color, national origin, or ancestry. We consider this consecration to the cause of fair employment as important as any or all of our union objectives.

In the long roll of history, it may be that the International Brotherhood of Sleeping Car Porters will be remembered more for its advocacy of the fair employment idea than for the sum of union benefits brought to its members.

IX. FAIR EMPLOYMENT NEEDED TO COMPLETE THE LIBERATION OF MAN

My own conviction is that the establishment of fair employment as the pattern and practice in American industry and business will be the greatest liberating force since the abolition of chattel slavery. With its establishment, the achievement of genuine economic democracy becomes a possibility. And, at this moment in the history of mankind's efforts to find and keep freedom, the actual practice of fair employment here will give the United States of America reinforced moral leadership of the world.

Our people have had a vision of freedom for 300 years. They have enjoyed some freedom. During the war, under the FEPC, they had a taste of a greater degree of freedom, of more nearly equal opportunity. They will never let that dream of freedom go. They will hope for it, pray for it, work for it, and vote for it.

Our plea today is that this committee and this Congress will let that dream come true so that we and all people in this troubled Nation and this desperate world can pass over into that promised land of abundance fairly shared among freemen, secure in employment and opportunity and at peace with one another.

(Whereupon, at 5:40 p. m., Wednesday, June 11, 1947, the subcommittee adjourned, subject to reconvening at 9:30 a. m., Thursday, June 12, 1947.)

ANTIDISCRIMINATION IN EMPLOYMENT

THURSDAY, JUNE 12, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the committee room, Capitol Building, Senator Forrest C. Donnell presiding.

Present: Senators Donnell (presiding), Smith, Ives, and Ellender. Senator DONNELL. The committee will be in order.

Mrs. Elizabeth J. Johnson, please.

Is Mrs. Johnson here?

Mrs. JOHNSON. Yes.

Senator DONNELL. Step forward, Mrs. Johnson.

Will you please state your name and address?

Mrs. JOHNSON. Elizabeth J. Johnson, 4924 J Street NE.

Senator DONNELL. And you are appearing, as I understand it, in order to present the statement of Rev. William H. Jernagin, director, Washington bureau, National Fraternal Council of Negro Churches in America?

Mrs. JOHNSON. Yes.

Senator DONNELL. Proceed, Mrs. Johnson.

STATEMENT OF MRS. ELIZABETH J. JOHNSON, PRESENTING THE STATEMENT OF REV. WILLIAM H. JERNAGIN, DIRECTOR, WASHINGTON BUREAU, NATIONAL FRATERNAL COUNCIL OF NEGRO CHURCHES IN AMERICA

Mrs. JOHNSON. On behalf of the Reverend W. H. Jernagin, director of the Washington bureau of the National Fraternal Council of Negro Churches in America, I wish to present the following statement:

As director of the Washington bureau of the National Fraternal Council of Negro Churches in America, representing 11 denominations and 7,000,000 members, I wish to offer the following statement in support of the new Federal bill against discrimination in employment, S. 184.

This is a time when Americans are looking to the Federal Government to insure them of the protection of their basic rights and privileges, especially as regards the right to work and earn a livelihood. A progressive America, leading the world in fostering international harmony and good will, must no longer tolerate discrimination toward any of its citizens on the basis of race, creed, color, or national origin. We of the National Fraternal Council of Negro Churches stand firmly in this belief and therefore vigorously support legislation designed to give this protection.

Senator DONNELL. Pardon me, Mrs. Johnson. Could you tell us what is the Council of Negro Churches? Could you personally give us the composition of that organization?

Mrs. JOHNSON. I think I can.

It represents, as I said, 11 major denominations, and they are in just about every State in the Union, and the membership is made up of individuals, of churches, of State conventions, and of associations, different break-down units in the different denominations, and they have memberships that pay to the council to become members of it.

Senator DONNELL. Has any action been taken by the council officially through its board of directors or executive committee or general assembly, or whatever it may be?

Mrs. JOHNSON. You mean to endorse such legislation?

Senator DONNELL. To endorse S. 984?

Mrs. JOHNSON. Yes. They had their annual meeting in Baltimore May 28 and 29 of this year, at which time they passed the resolution adopting this legislation, and they have always been in the forefront.

Senator DONNELL. I was interrupted for just a moment. You may have mentioned that before.

Have you presented that already?

Mrs. JOHNSON. No; I have not come to it but it is in there.

Senator DONNELL. You are going to present that?

Very well.

Mrs. JOHNSON. Yes, sir [reading]:

As spiritual leaders in various communities across the Nation the clergy of the National Fraternal Council of Negro Churches know how vitally essential fairness in employment is to the economic, social, and religious fiber of our people and all people. When a breadwinner is denied a job to support his family because of the color of his skin, his race, or creed, the moral structure of this great America is weakened. We recognize the fact that the Negro worker along with other minority groups suffers tragically because of the failure to receive fair employment privileges.

Churches and members of the National Fraternal Council of Negro Churches in America have registered their individual and group endorsement of the FEPC legislation in the past and this organization has been outspoken in the support of all efforts toward fair employment practices.

We are especially pleased that this bill, S. 984, has come up for hearing at this time and we do respectfully urge the members of the Senate Committee on Labor and Public Welfare as well as Congress in general to look upon this bill as a measure that must be considered favorably in the interest of our Nation's welfare.

In the annual meeting of the National Fraternal Council of Negro Churches in America which met May 28-29 in Baltimore, Md., a strong resolution supporting S. 984 was unanimously adopted. We feel deeply the urgent need for this important piece of legislation and urge favorable consideration.

Senator DONNELL. Can you tell us, what are the church organizations that belong to your council?

Mrs. JOHNSON. The different denominations; I think I can name them:

The Baptist, of course, represents the largest denomination. A. M. E.'s, A. M. E. Zion, C. A. M. E.'s, Pentecostal, Presbyterian, Protestant Episcopal, Congregational, Christian, and Disciple.

I think that is about all. There are 11.

Senator DONNELL. There are 11; yes.

Mrs. Johnson, at the meeting held in Baltimore, on May 28 and 29 of this year, how large delegations were present; do you know?

Mrs. JOHNSON. I did not attend the meeting, but I understand that there was represented at least 300 delegations.

Senator DONNELL. You mean at least 300 delegates were there?

Mrs. JOHNSON. Yes; they were there, and others were represented by proxy.

Senator DONNELL. Do you know whether all these 11 denominations were represented at the Baltimore meeting?

Mrs. JOHNSON. Yes; all these denominations were represented.

Senator DONNELL. And you say there was a strong resolution supporting this S. 984 which was unanimously adopted?

Mrs. JOHNSON. Yes.

Senator DONNELL. Do you have a copy of that resolution?

Mrs. JOHNSON. No; I do not have.

Senator DONNELL. Could you furnish a copy?

Mrs. JOHNSON. I could furnish one.

Senator DONNELL. Would you please send a copy within the next day or two to Mr. Rodgers, the clerk of this committee?

Mrs. JOHNSON. Yes; I will.

Senator DONNELL. Thank you, Mrs. Johnson.

Senator ELLENDER. Will you state your name for the record?

STATEMENT OF JOSEPH KOVNER, REPRESENTING THE AMERICAN CIVIL LIBERTIES UNION

Mr. KOVNER. My name is Joseph Kovner. I am an attorney, resident of the District of Columbia, presently connected with the Johns Hopkins University labor-union study. That is a special study at Johns Hopkins University.

I was formerly counsel to the labor divisions of the War Production Board, and formerly assistant general counsel to the CIO.

Senator ELLENDER. Where were you born?

Mr. KOVNER. Brockton, Mass.

Senator ELLENDER. Brockton, Mass.?

Mr. KOVNER. Yes.

Senator ELLENDER. What is the American Civil Liberties Union?

Mr. KOVNER. The American Civil Liberties Union is a voluntary association organized in the form of a membership corporation under the laws of the State of New York. Its purpose is to defend, promote, and protect civil liberties in the United States.

Senator ELLENDER. What is your membership?

Mr. KOVNER. The membership ranges around 6,000 to 10,000 voluntary contributors.

Senator ELLENDER. Are you maintained solely by contributions from the membership?

Mr. KOVNER. We are maintained solely by voluntary contributions from the membership and occasional larger grants or gifts from members.

Mr. ELLENDER. Do you have a list of the officers?

Mr. KOVNER. Yes; I have here a list of the national committee.

The functioning organization consists of a national committee of 60 to 70 persons scattered throughout the country, and the board of directors of about 30 persons who live in New York City and who meet every week, the majority of whom meet once a week to go over the affairs of the unit.

I have here a pamphlet entitled "Presenting the American Civil Liberties Union," which I shall be glad to offer to the committee.

(The document referred to was filed with the committee.)

Senator ELLENDER. Who are your active officers?

Mr. KOVNER. The active officers are listed at the end.

Mr. Roger Baldwin is the director.

That is on the very large page, Senator, that you will find the officers.

Roger Baldwin is the director, and Mr. Clifford is the general counsel to the organization.

Senator ELLENDER. Is it open to membership to anybody who desires? Are there any qualifications for membership?

Mr. KOVNER. Anyone who desires is open to membership, and who subscribes to its principles, which include a belief in civil liberties and in the democratic form of government.

Senator ELLENDER. Have you a prepared statement?

Mr. KOVNER. Yes; I do.

Senator ELLENDER. Do you want to go through it without interruption or do you mind interruptions?

Mr. KOVNER. I do not mind interruptions.

Senator ELLENDER. Proceed.

Mr. KOVNER. The American Civil Liberties Union as an organization vitally concerned with the protection and extension of our Bill of Rights and the elimination of any discrimination based on race or religion, wishes to express its complete support of S. 984. The union supported the elimination, during the past war, of such discrimination in public employment among contractors working for Federal agencies and favored the creation of the President's Fair Employment Practices Committee. The union also has supported legislation and court proceedings aimed at eliminating discrimination by trade-unions in admitting members on the ground that some unions now have such large control over employment in many industries that their regulation is necessary.

2. The principle involved in the National Act Against Discrimination concerns discrimination by private employers as well as by Government agencies and trade-unions. The union has taken the position that private employers should be prevented from discriminating on the same basis as trade-unions, controlling between them as they do the means of livelihood. S. 984 applies to employers with 50 or more workers and unions with 50 or more members. The exemption of small establishments is based on the fact that these employers and unions affect the labor market only slightly and that the difficulty of enforcing policies affecting these small units is too great.

3. It is contended by those who oppose enactment of statute to outlaw discrimination in employment that they violate their right to choose their own employees. That argument, it seems to the ACLU has been effectively answered by the many labor laws enacted, the progress being made under comparable State legislation, and the remarkable success of the FEPC during its short life. The right to work has been recognized as one of our primary civil rights and the denial or curtailment of the right to work by reason of race, creed, color, or national origin deprives minorities of their constitutional rights to earn a livelihood (*Carroll v. Local 269*, 133 N. J. Eq. 144, 147, and cases cited).

Senator ELLENDER. Will you tell us, for the record, what minorities are?

What is your conception?

Mr. KOVNER. I would suppose that a minority is a group less than the majority of the Nation, who have certain marked characteristics in common, either matters of belief, or ideas, or biological traits of race, or accidents of birth.

Senator ELLENDER. Would you consider a group of 24,000,000 people a minority?

Mr. KOVNER. That would depend upon the unit. When we are proceeding with a unit of 125,000,000, it would be a minority, just simply on the arithmetic of minority and majority.

Senator ELLENDER. Is it your conception that as long as it constitutes less than 50 percent of our entire population, that it is a minority?

Mr. KOVNER. That would be technically so.

Now, there are practical considerations. Some groups which may be a technical minority may have no practical problem as a minority group. I should suppose, for example, that certain members of the Anglo-Saxon Episcopalian faith in this country are a very small group and a minority, but think of the very few problems of discrimination as a practical matter; whereas a very much smaller group or much larger group such as Negroes would have a very serious problem.

Senator ELLENDER. Now, there was a statement made here yesterday by a Catholic priest to the effect that he considered 23,000,000-plus Catholics a minority group.

Mr. KOVNER. Speaking technically, I suppose that would be true.

I suppose it is also true that we all belong to some minority group or another.

Senator ELLENDER. That is a point.

In other words, there are no majority groups. They are all minority groups, according to that interpretation?

Mr. KOVNER. Again, it is a matter of relation. In relation to the Negroes, for example, the majority are whites. They are a very distinct minority in such a situation.

Senator ELLENDER. In relation to racial origin?

Mr. KOVNER. Or in relation to religion. I should say the Jews or the Mohammedans are a distinct minority as against the overwhelming Christians in the country. One does have such minorities and such majorities. I think the term is a relative one and has to be understood in this case, but it does create or does have very practical groupings and problems in the minds of those who sponsor this legislation.

Senator ELLENDER. Proceed.

Mr. KOVNER. The courts have consistently upheld legislative authority to regulate labor conditions and relations (*Phelps Dodge Corp. v. N. L. R. B.*, 313 U. S. 177; *U. S. v. Darby*, 313 U. S. 100; *Olsen v. Nebraska*, 313 U. S. 230).

The experience of the States and municipalities which have comprehensive and effective laws forbidding job discrimination has shown that progress can be made through law toward the elimination of discriminatory employment practices and the opening of fields of oppor-

tunity previously closed to certain minority groups. A Federal law, however, is essential so that uniformity can be achieved and large employers engaged in interstate commerce can be covered. The President's wartime FEPC, drawing upon 5 years of experience, warned in its final report that—

no device will solve the problem [discrimination] short of the enactment by Congress of Federal fair employment legislation.

Senator DONNELL. Pardon me, Mr. Kovner.

One of the members of our committee has to attend another meeting in a few minutes and desires to present something for the record, if you will pardon the interruption.

Mr. KOVNER. Absolutely, sir.

Senator SMITH. Thank you.

Mr. Chairman, yesterday, at these hearings, I discussed the possibility of an amendment to this bill on the question of enforcement; and I see by the papers this morning that from the headlines and the statements in the papers that what I proposed was apparently misunderstood by members of the press and therefore, for the record, I would like to correct what I think is a misapprehension.

The New York Herald Tribune of Thursday, June 12—this morning—has a big headline as follows:

Plan to Exempt South in FEPC Bill Proposed.

Senator Smith suggested at hearing.

The Washington Post has a headline, "Smith Asks State Run FEPC."

And goes on to say:

A suggestion by Senator Smith that enforcement of fair employment practices be left to the individual States was a proposed consideration yesterday before a Senate labor subcommittee.

For the record, I want to make it perfectly clear what my suggestion was.

I am entirely in favor of this bill the way it is framed. I was a co-sponsor of the bill. I think that the whole program is well worked out, with its educational program, and with its conciliation-mediation program.

I think the proposals for enforcement and the prevention of unlawful practices is extremely well worked out.

I am entirely for the whole way the matter is done, with court review and with court participation.

That applies to the bill as a whole covering the country as a whole.

What I suggested, however, was that, in those areas of the country where an over-all program like this might conceivably be unacceptable—and that might be in the Southern States, or any State—if within the period of time after the bill is passed, and before it actually goes into effect, such States, by positive action of their State legislatures, resolve that they do not wish sections 7 and 8 of the bill, the punitive provisions of the bill, to apply in those States, in those instances, and while the State continues to take that attitude, those provisions would not be applicable.

I never said any area should be exempted from the bill. I think the bill should be passed as an over-all statement of national policy. I think it should apply to every State equally as far as that is concerned.

I think all the measures and remedies should be available and should be used. The Commission should operate in all the States.

But when it comes to the issue of whether the Federal Government should reach its hand in, to try to enforce within a State the provisions of sections 7 and 8, I simply raise the question whether it would not be proper at this stage of the evolution of the principle to resolve that they did not wish the Federal enforcement agencies to put these enforcement measures in effect in their respective jurisdictions.

This respects the principle of States rights and yet recognizes the responsibility of the Federal Government for an over-all statement of policy and principle until further steps can be taken all over this country to bring about the fundamental issue of equality of opportunity in economic matters.

Or put it this way: An equality of economic opportunity.

That, I believe profoundly, is a Federal principle.

I think it is a principle that the United States has always stood for and always should stand for, and the question is simply the practical, effective, and proper way to work it out with the cooperation of all concerned.

I wanted to make it perfectly clear that the implication given, at least, by these articles, is not in line with the thought that I had.

My thought is to make the law universal but to give States within a reasonable period an opportunity by positive legislative action to say "but we would rather not have the punitive sections apply in the State."

Mr. Chairman, I am sorry that I have to leave, but I wanted to get the record perfectly clear.

Senator DONNELL. Very well.

Proceed, Mr. Kovner.

Mr. KOVNER. I wonder if I might interrupt, since at the time the statement was drafted the proposal of Senator Smith had not been made.

I am sorry that the Senator had to leave just after commenting on that point which he has suggested, which he attempted to clarify in the statement that he has made this morning.

Senator DONNELL. Did you have a question?

Mr. KOVNER. Yes. I wondered if I might interrupt my own formal statement to comment on Senator Smith's proposal?

Senator DONNELL. Yes, sir; you may make any statement you desire, Mr. Kovner.

Mr. KOVNER. I find it hard to understand how the Senator's proposal—and I regret again that I must say this in his absence—does not amount to an exemption allowing the State to exempt itself from the operation of a Federal law. The exemption depends upon action by the State; but, on the other hand, the State is not prevented from claiming the exemption under the proposal made by the Senator if it wishes.

I find it difficult, both as an ordinary citizen and as a lawyer, to understand how that makes a Federal law. It seems to me that strikes down the very notion of a law.

A Federal law, if it is a law of the Federal Government, is a positive declaration and must have uniform force and application throughout the United States. That was why the Federal Government was formed.

Prior to the formation of the Federal Union, we had a Confederation, and the very point of the Confederation was that any State could decide whether or not it wished to comply with a law passed by the Confederate Congress, and the Constitution was adopted "in order to form a more perfect union." And the idea behind the formation of "a more perfect union" is that the Federal Congress, when it adopted a positive law, that law would apply positively and uniformly throughout the country.

Continuing with the prepared statement:

4. Now, more than ever before, it is important that the job opportunities of minority group workers be protected and equalized. Employment is receding from its wartime peak, and in June 1946, in its final report, the President's Committee on Fair Employment Practice already noted that—

the wartime gains of Negro, Mexican-American, and Jewish workers are being dissipated through an unchecked revival of discriminatory practices.

The same trend has, without doubt, continued to the present time.

Senator ELLENDER. Have you evidence of that?

Mr. KOVNER. I could not speak personally, Senator.

Senator ELLENDER. I have been hearing it all the time, but what I would like for the committee to have for the record is positive evidence of that.

If you have the names of people in Washington or anywhere else who have been recently discriminated against, I would like to have their names and the employers' names, so that we can determine that.

The statement has been broadly made here, and whenever we ask for proof, nobody is home.

Mr. KOVNER. Proof as to discrimination, for example, against the Negroes?

Senator ELLENDER. I mean discrimination against Jews and colored people.

Mr. KOVNER. That is going on currently?

Senator ELLENDER. Yes, currently.

Mr. KOVNER. I do not have any trouble citing ordinary every-day experience in Washington, as to the position of Negroes. I have myself been in the position of considering employing—

Senator ELLENDER. Will you give us the names of those and the employers who refused to give them employment? You will help the committee if you do that.

Mr. KOVNER. I would be very happy, Senator, to go through my own personal knowledge and provide the committee with names and information, as far as I can.

Senator ELLENDER. Well, do so.

Mr. KOVNER. Yes.

I think that one of the reasons for a measure of this kind is this: For example, if I have a friend who tells me that he has been discriminated against I would have to report that to the committee on his evidence. I would not know in fact whether the employer has in fact done so or not.

Senator ELLENDER. There are a lot of such claims made, but when one attempts to prove them it is found that the complaints are not based on discrimination but on other matters.

Mr. KOVNER. I would like to say that for my own self, my testimony is based upon the position of the American Civil Liberties Union. Its

position is a matter partly of principle and partly of an investigation of facts. I have no doubt that there will be witnesses before this committee who have personally and in their organizations suffered that problem. However, I will say this much to the Senator: There are judiciary records of discrimination.

Senator ELLENDER. No doubt there are.

Mr. KOVNER. The Senator may be aware of the cases decided by the Supreme Court of the United States in the term before last, *Tunstall* (323 U. S. 210) and *Steele* (323 U. S. 102), against the Brotherhood of Locomotive Firemen and Enginemen, in which the undisputed facts show that the railroad brotherhoods in that case had made an agreement with the southern railroads, clearly and explicitly—they made absolutely no bones about it—taking away the seniority rights of Negro firemen and giving the jobs which those Negroes lost, because their seniority rights had been withdrawn, to whites.

Now, there is a judicial record and a specific case.

Senator ELLENDER. What happened? Were they given their jobs back?

Mr. KOVNER. By an order of the Supreme Court of the United States.

Senator ELLENDER. Well, that is the law, then.

Mr. KOVNER. And that brings out a very interesting point, that the law at the present time, as a result of judicial decision, applies the very legislative positive declaration against discrimination to unions. You now have the situation in which unions which control employment are bound by the law, and the law is a combination of policy, statute, and judicial decision, not to discriminate between members and between persons who are covered by their authority in employment, on account of what the Supreme Court called "nonrelevant grounds," such as race or creed.

But the employers are not bound.

What this statute would do, to a very large extent, would simply place employers under the same legal obligation that the unions are now under. That is all this statute would do.

Senator DONNELL. The liability of the unions does not rest on statute, does it?

Mr. KOVNER. In part.

Let me explain the theory of the case that came up before the Supreme Court.

The complaint was a complaint by Negro firemen against the Brotherhood of Locomotive Firemen and the railroad, claiming that their agreement taking away the seniority rights of the Negro firemen was in violation of the Federal Constitution and Federal statutes.

The Supreme Court held—

Senator DONNELL. What was the Federal statute involved?

Mr. KOVNER. The Railway Labor Act.

Senator DONNELL. I see.

Mr. KOVNER. Now, the Railway Labor Act contains no specific provision concerning nondiscrimination, but the Supreme Court of the United States, relying upon the fundamental principles of civil liberties, which we argue for here, said this: Under the railway labor statute, a union was by statutory authority made the exclusive bargaining representative of a given number of employees in a unit, the firemen working for a particular railroad company, and it said that

a union thus endowed by authority of a Federal statute to represent all members of the group could not discriminate among them or between them on grounds of race; that that would be an unconstitutional abuse of powers conferred upon the union by statute.

But that is not all.

In a California case, of the California State courts, *James against Marion Ship Corporation*, decided just a few years ago—in fact, decided before the Supreme Court decision, so that the California court reached the same conclusion without the benefit of the Supreme Court decision—there was a situation in which the boilermakers' union had a closed-shop contract covering a shipyard, and the contract required that any person seeking employment in that shipyard had to be a member of the boilermakers' union.

Now, the boilermakers' union happened to be an old A. F. of L. craft union, a white craft union. It had excluded Negroes. It refused to admit Negroes into membership; and, as a result, Negroes could not secure employment in the shipyards, because membership in the boilermakers' union was a condition of employment.

The California court, without benefit of any statute, but relying simply upon fundamental principles of civil liberties, and moral right, and public policy, held that the boilermakers' union would either have to admit Negroes on equal terms with whites or else give up its closed shop.

Senator DONNELL. If that is a fundamental principle, which does not depend for its existence upon statute, why would that not apply to an employer as well?

Mr. KOVNER. Because of a quirk in the law.

Senator DONNELL. What is the quirk in the law?

Mr. KOVNER. The quirk in the law is simply this—

Senator DONNELL. There is not any quirk in the constitutional law. If it is a constitutional right, the employees had the right to membership in the union, and that right was not dependent upon statute.

Why would not the same constitutional right exist with respect to the relations between individuals and employers so that a refusal on the part of employers to employ based solely on discrimination arising from race, creed, color, or national origin would likewise be subject to the same constitutional inhibition?

Why would not the same rule apply in both cases?

Mr. KOVNER. Because the Supreme Court held in some decision back in about 1880 or so that the Federal civil rights statute does not apply to action by private citizens denying another person his civil right, and the employer, in his employment, has been regarded under the conventional common law doctrine as a free agent having the free right to hire and choose whom he employs.

Senator DONNELL. So you think that under the law, in the absence of a statute, the employer does have a constitutional right to employ whom he pleases? Is that right?

Mr. KOVNER. That is the result partly of Supreme Court decisions and partly judicial common law concepts.

Senator DONNELL. But you think that that is the present law?

Mr. KOVNER. That certainly is the present law, but it can be changed.

Senator DONNELL. And therefore a statute is necessary?

Mr. KOVNER. That is right. There is no question about that.

Senator DONNELL. Go on.

Mr. KOVNER. The Charter of the United Nations provides that—the United Nations shall promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race and that all members pledge themselves to take joint and separate action for that purpose (art. 55c, 50).

There is no more basic right than equal opportunity to obtain gainful employment. Permitting discrimination based on race and religion to govern the selection and placement of workers runs counter to all theories of democracy and the solemn pledges of the United States Government. If we are not to jeopardize our place in the eyes of the world as the leading exponent of democracy, we must square our practices with our professions.

Restraints on the right to equal treatment and the right to work should be removed. S. 984 goes no further than that and we therefore favor its immediate passage.

Senator DONNELL. Do you desire to interrogate the witness, Senator?

Senator ELLENDER. Do you believe in segregation of races?

Mr. KOVNER. I believe that the segregation of races should not be the result of a legal direction or command.

Senator ELLENDER. A what?

Mr. KOVNER. It should not be legally required. It should not be the result of a statute. I think our laws have to be based upon the equal protection of the law and nondiscrimination on account of race, creed, color, or sex or other grounds.

As to questions of private personal relations, as to whom I wish to go around with, who are my friends, what clubs and societies I wish to belong to, that is a personal affair.

However, employment and the opportunity for employment is not just simply a personal matter. That has been recognized by many statutes which regulate the employment conditions but do not regulate whom I shall go out to dinner with.

Senator ELLENDER. You want to leave the choice to the individual?

Mr. KOVNER. On social and personal relations, yes.

Senator ELLENDER. And not to the community or by law?

Mr. KOVNER. No, no. I think that the law is a command of the State, and when the State undertakes to back up discriminatory prejudices, such a State is violating the Federal notions of democracy; and what is more, and makes it more important, it is one thing to be discriminated against by somebody who does not like me personally, but it is another thing to be discriminated against by the State, with all the authority and powers of the State.

Senator ELLENDER. Do you think that a community—

Mr. KOVNER. I may be able to select other friends but I cannot choose the State under which I am living.

Senator ELLENDER. But you can be forced, though, to do things that you might not otherwise do?

Mr. KOVNER. That is right. That is what I am against.

Senator ELLENDER. For instance, without segregation you may go to school, attend the same classes, you may be forced to go to theaters or hotels, or a public conference with those whom you may consider undesirable.

Mr. KOVNER. This bill does not require that.

Senator ELLENDER. I understand that but I am asking you if you believe in segregation along the lines I have just suggested?

Mr. KOVNER. I do not personally, sir, but I am perfectly willing to say that the progress in social segregation has to be made slowly and you cannot compel people to do things which run very much against their grain. I would not try to. A law of that kind would not work. I believe if anything should be done to break down those kinds of prejudices, it requires a much more subtle and long-ranged process of education and social familiarity and companionship.

No; I would not try to do a thing like that but I do think that it is proper for law to protect fundamental and basic rules of fair play between persons who live together in a society. I think that was the fundamental notion behind the Supreme Court decision. It said so.

What we are after is fundamentally fair play. We cannot go beyond that but we can at least insist on that.

Senator ELLENDER. Do you think it is judicious for a State to have a law to prevent marriages between whites and Chinese or colored or Japanese?

Mr. KOVNER. Personally, I do not think it is a good, wise, law.

Senator ELLENDER. Why not?

Mr. KOVNER. Just because personally I do not think that those kinds of discriminations work. I think in the first place they do not actually prevent the actual biological mixture of the races. They merely prevent certain formal relations from being recognized.

Senator ELLENDER. Do you think it ought to be permitted?

Mr. KOVNER. Personally, I do. As I say, how far I would go in the direction of changing the ideals of people who think differently about that from what I do, that is another matter.

Senator ELLENDER. Do you think the law should permit the inter-marriage?

Mr. KOVNER. I personally do, but I would not try to go down and compel somebody who disagreed with me very strongly about that to change his mind. I would not try to force him to.

Senator ELLENDER. You are a lawyer, you say?

Mr. KOVNER. Yes, sir; I am a practicing lawyer.

Senator ELLENDER. Are you a Christian or a Jew?

Mr. KOVNER. I am a Jew.

Senator ELLENDER. Why is it that Jews do not permit marriage with Christians?

Mr. KOVNER. Their religious law does not, but, of course, they do not have much civil authority these days.

Senator ELLENDER. But why is it that a Jew becomes an outcast if he marries a Christian?

Mr. KOVNER. He does among the old-timers. He does not today.

Senator ELLENDER. You mean among the Jews?

Mr. KOVNER. That is right; among the orthodox Jews.

Just for the record, I happen to have married a non-Jewish person myself. I am still on very good relations with my family.

Senator ELLENDER. But still you do know, though, that it is the general belief that if a Jew should marry a Christian, he becomes an outcast among the Jews?

Mr. KOVNER. No; only among a certain small group of very orthodox Jews who still have very old customs and habits and prejudices, but certainly not among the Jews who have lived in this country or among those in this country.

Just taking my experience; I am a first-generation in this country.

Senator DONNELL. What is the number of Jews in this country; do you know?

Mr. KOVNER. I do not happen to know, sir.

Senator DONNELL. Do you know what percentage of them have intermarried with Christians?

Mr. KOVNER. I do not know the statistics on that, either.

Senator DONNELL. Do you know whether any have intermarried with colored?

Mr. KOVNER. I do not happen to.

Senator DONNELL. Have any intermarried with Chinese or Japanese?

Mr. KOVNER. I do not happen to.

I just want to say, I respect these very strong personal feelings when they come to me, in personal relations, but I think your question brings out a point that you do not have to pass a law to prevent people of different faiths and racial backgrounds from marrying each other. As a matter of fact, they will not.

Senator DONNELL. You do not think so, if it is to preserve the race?

Mr. KOVNER. No, sir, because if the instinct of the race is one which it is claimed to be, a deep biological instinct, then the instincts will be far more powerful than any law.

Senator ELLENDER. You think so?

Mr. KOVNER. If it is what it is said to be.

Senator ELLENDER. You think after another century, that will apply in the South, let us say, where we have 75 percent of the Nation's colored population. Take my State, for example, in some parishes there, the ratio of colored to white is about 2 to 1.

In Mississippi, it is as high as 3 to 2, in fact, in several of the Southern States there is practically the same proportion.

Now, over a period of time, if you should permit all of the whites, and all of the colored, and all of the Chinese and all the Japanese, to go to the same social functions, churches, schools, theaters, swimming pools, be buried in the same cemeteries, what effect do you think that would have in encouraging at some future time the intermarriage of the different races?

Mr. KOVNER. I would say that if all those conditions were present and the groups had reached such a state of social relations, marriage would probably be one of them, too.

Senator ELLENDER. Exactly. And that is our problem in the South, but outsiders do not seem to understand it.

Mr. KOVNER. But Senator, I have said before that I am not trying to force a change in law in those social relations.

Senator ELLENDER. But you said you are against it?

Mr. KOVNER. Personally. I respect your position on it as I expect you to respect mine. I am not trying to go down there and change you about it. I am talking with you about it and discussing it reasonably, as intelligent people can, but I will not pass a law to force you to associate with people you do not want to. This bill does not do that.

Senator ELLENDER. But the law that you advocate is going to lead to that. It is the next step.

Mr. KOVNER. It has always been said by people that one step leads to another, but politics is the art of taking one step at a time.

Senator ELLENDER. There is no question about it. There is no stopping. I know the people of the colored race are going to keep going, advancing and advocating social equality until probably they will attain it through political alignments. Today we have in this country colored people, so the story goes, who hold the balance of power in seven or eight of our pivotal States. Under those conditions these pressure groups can make demands in Congress, and in other words, they can make Senators and Representatives who are politically ambitious dance to their music.

Now, as I tried to point out yesterday, Brazil, located just to the south of us, is a country that is larger than the United States, as rich in natural resources. It was discovered before the United States was, and yet look how backward it is. Why?

Mr. KOVNER. The weather might have something to do with it.

Senator ELLENDER. No, sir.

Mr. KOVNER. It is a tropical country.

Senator ELLENDER. No, sir. We have a tropical country here too, in the South. Our efforts are not far apart there, almost in the same zone. But the reason for its lack of progress is that the discoverers, those who came from Europe, instead of remaining a Caucasian race, as they did here in this country, intermarried with the Indians, Chinese, and with the colored there, who came after that as slaves and as a result of such a mixture produced a mongrel race, and with that handicap no progress.

And I do not want that to occur in this country.

Mr. KOVNER. I am impressed by the weather argument, because yesterday was an awfully hot day in Washington, and if I were living in weather like that constantly, I doubt whether I would have much get-up-and-go in a steel mill, and to build railroads.

All I can tell you, Senator, is that any attempt to try to explain the great developments of civilization upon such biological premises as those is a very risky business.

Again it strikes me if the biological forces which you speak of are as strong as you say they are, then they would not need a law to protect them.

Moreover, all those considerations are not in this bill.

As to the argument that this is a statutory act, all I can say is that I do not know how you can take any action if you keep thinking of what it might lead to.

I do not know any other way to meet your problem. We raise up a host of feelings that people have, notions about prejudices which they may think of as biological foundations but which may only be social prejudices. I do not know. I only know, individually, as a person who belongs to the American Civil Liberties Union—and I belong to no other organization except my professional association and the Civil Liberties Union and my neighborhood association.

Senator DONNELL. What is your professional association?

Mr. KOVNER. A lawyer.

Senator DONNELL. What is your professional association?

Mr. KOVNER. I have not practiced for some time but I did belong to the New York Bar Association, and the American Civil Liberties Union is the only organization I would belong to because I know that it is democratic and I do not know of any way to solve the problem the Senator is talking about except to try to solve it on basic principles of civil liberties and not upon emotional, prejudicial feelings that are based on hate, that are based upon feelings of superiority, that are based upon feelings that you have to smite the other fellow, that you are superior to him, and that you have some kind of right to be superior to another fellow.

I cannot operate on these feelings. I just personally do not, or try not to.

Senator ELLENDER. Why should an employer be forced to, as this bill provides, leave it to a commission to decide what the facts are, not appealable, and let the commission force the employer to take employees not at his choosing?

Mr. KOVNER. First, the commission's findings of fact are not conclusive. They are subject to judicial review. The review is limited but nevertheless it is there and it is a check upon abuse of power.

Senator DONNELL. To what extent do you think this has the power of review, as you interpret S. 984?

Mr. KOVNER. I do not think there is any doubt about it.

Senator DONNELL. I say, to what extent?

Mr. KOVNER. The courts have a right to review any commission finding built upon the law and upon whether or not there is substantial evidence.

Senator DONNELL. Will you point out that particular portion of the statute to which you refer?

Mr. KOVNER. Yes, sir.

I am sorry. I know it is in here. It follows the Federal Procedures Act.

Senator DONNELL. That is on page 2.

Mr. KOVNER. Take page 11, for example. It says:

(k) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act, Public Law 404, Seventy-ninth Congress, June 11, 1946.

And it is my understanding that the Administrative Procedure Act, those particular sections referred to, deal with uniform principles for the review by the courts of the action of any Federal administrative agencies, and those proceedings require detailed notice—

Senator DONNELL. Pardon me for just a second, Mr. Kovner. I think the section from which you are reading, section 7, is that which refers to procedure before commissions.

Now, the section on judicial review is that set forth on pages 12 and following and I would like to know for the record and personally on what you base your judgment that the court may extend its review to the point that you have indicated?

Mr. KOVNER. As I understand it, my information is that that is under sections 8 (a) and 8 (h).

Section 8 (a) of the bill, page 12, lines 21 to 23, provides that the court shall conduct further proceedings; that is, following the filing of a petition, in conformity with the standards of procedures and limitations established by sections 10 (c) and 10 (e) of the Admin-

istrative Procedure Act. And section 8 (h) of this bill, on page 15, lines 4 to 8, provides that when the petition is filed in the court by a person rather than by a commission, the procedure shall be governed by the sections of the Administrative Procedure Act, sections 10 (a) and 10 (b).

Senator DONNELL. So that those are the two portions of this bill, S. 984, on which you rely for your opinion?

Mr. KOVNER. Yes.

Senator DONNELL. Go ahead.

Mr. KOVNER. There is one point which I wanted further to make in connection with the present difference of the law between the treatment of unions and employers, and that is that unions are now also subject to, in an indirect way, but none the less quite effectively, to national legislation, because of the fact that there are FEPC laws in some States.

Most unions are national organizations as distinguished from employers, and it is the requirement of State law, such as New York, for example, that a union cannot function in that State unless the union as a whole does not discriminate.

And the Brotherhood of Railway Clerks, for example, at its recent convention, had to amend its Constitution and strike out its constitutional exclusion, because it had to operate in the State of New York.

Employers are not under that kind of effective law, because an employer may operate in many States and not operate in New York, or he can form subsidiaries who operate in the different States and will not be covered by it. But unions being unincorporated associations do not get that kind of separation and break-down.

So I think really the difficulty with this law, and I think that this judicial decision of the Supreme Court and the courts has been in effect for 2 years, and it has not done anything more than what it does on its face. It simply requires no discrimination in employment. It has not led to any of the things the Senator fears, assuming that his fears are justifiable ones.

Senator DONNELL. Mr. Kovner, I want to ask you just one or two questions.

You have personally studied S. 984, I judge, from your comments?

Mr. KOVNER. I have read it over a couple of times.

Senator DONNELL. I wanted particularly to inquire whether you interpret it to authorize contempt proceedings against an employer who violates a decree of the court issued to enforce an order of the National Commission Against Discrimination in Employment?

Mr. KOVNER. I recall the provision of that sort, sir. It would be my understanding that after the Commission has issued an order, after that order has been upheld by a court, that the penalty for violation of that order would be the contempt powers of the court, because at that point it becomes an order of the court and not an order of the Commission.

Senator DONNELL. So that is your present interpretation of the act?

Mr. KOVNER. Yes; that is my present interpretation.

Senator DONNELL. I see.

Thank you.

Rabbi Wise.

Senator ELLENDER. Mr. Chairman, yesterday I gave notice that I was going to present this morning for the record excerpts from an

article appearing in the American magazine by William A. H. Birnie, in which he quotes at length from Randolph, who testified here yesterday, and I will ask that the clerk go over the article and prepare for the insertion in the record such portions as are attributable to Randolph, and that these be inserted in the record, and that copies of what have been placed in the record be sent to Randolph for his inspection and right to answer. (See p. 127.)

Senator DONNELL. It is so ordered.

Will the record show, please, the date of the magazine?

Senator ELLENDER. January 1943.

Senator DONNELL. Dr. Wise, will you be kind enough to state your full name for the record, and the connection in which you appear this morning?

STATEMENT OF DR. STEPHEN S. WISE, PRESIDENT, AMERICAN JEWISH CONGRESS

Dr. WISE. My name is Stephen S. Wise. I am the president of the American Jewish Congress, founded by Mr. Justice Brandeis just before he became a member of the United States Supreme Court in 1917.

The American Jewish Congress has some 50 national affiliates and its personal membership and its affiliation membership together constitute, we believe, more than 1,000,000 Jews, members of the Jewish faith and race.

Forgive me for answering a question which the gentleman who preceded me seemed to be unable to answer, Mr. Senator, namely, it is our estimate that the Jewish population in the United States is 5,000,000. Those are the figures that are accepted by us.

Senator ELLENDER. That is 5,000,000. How many are there in the world; do you know?

Dr. WISE. Yes; thanks to Mr. Hitler and the neutrality of the civilized nations of the earth, 6,200,000—and these are the figures of Mr. Justice Jackson, of the United States Supreme Court—were slain from 1938 to 1945, leaving not more than 10,500,000 Jews in the world, of whom half live in this country, nearly half, 45 percent.

I thought I would answer the question because you seemed to be interested in it, Senator.

Senator ELLENDER. Yes, sir; I wanted to get those figures.

Senator DONNELL. Dr. Wise, I understand, therefore, that you are appearing on behalf of the American Jewish Congress.

I want for our record to have you tell us, if you will, how the American Jewish Congress expresses itself, whether by resolution, in annual meeting, or meetings held from time to time or through its board of directors or trustees; how does it express itself?

Dr. WISE. The American Jewish Congress expresses itself in all possible ways.

It is a national organization, with a rather considerable administrative committee and executive committee, a smaller subcommittee, a steering committee of the executive committee. For example, I am empowered to present my testimony and my own thoughts and that of the Congress by virtue of a resolution adopted by the administrative committee of the Congress on May 1 at a regular meeting of the administrative committee.

If you wish, Mr. Chairman, I could submit this.

Senator DONNELL. Would you be kind enough to do that, Dr. Wise?

Dr. WISE. Do you want me to submit it for the record without reading?

Senator DONNELL. Would you mind reading it, so that we might have it before us?

Dr. WISE (reading):

The American Jewish Congress, dedicated to combating racism in all its forms, has for years been foremost in the campaign on local, State, and National levels, to enact legislation which would effectively end racial and religious discrimination in employment. The right of a person to employment is a basic human freedom; and any limitations placed on that freedom because of considerations of race, creed, color, or national origin constitute a violation and denial of basic democratic rights.

We, therefore, enthusiastically welcome the introduction of bills in the Senate by Senator Ives (S. 684) and in the House of Representatives by Representative Norton (H. R. 2820) which would prohibit by law the practice of discrimination by employers and which would establish administrative machinery for the enforcement of the law.

We urge fullest mobilization of all democratic forces—

Democratic with a small "d"—

In support of this legislation and call on all affiliates, chapters, and members of the American Jewish Congress to demand of their representatives in Congress fullest support of and speedy enactment of this legislation.

Senator DONNELL. Thank you, Dr. Wise.

(Discussion off the record.)

Senator DONNELL. Shall we resume the record?

May I state to Dr. Wise that at 11 o'clock, the Senate convenes, and for a very few minutes only, this committee will be in recess at that time, until leave shall have been obtained to proceed with our deliberations.

Dr. WISE. I hope to finish before 11 o'clock.

Senator DONNELL. But we want you to have plenty of time.

I just want you to understand that if we go out at 11 for a short recess, you will understand it.

Dr. WISE. I want to make as brief as possible presentation of the case.

Senator DONNELL. Proceed, Dr. Wise.

Dr. WISE. Really, Mr. Senator, and gentlemen of the Senate committee, I think that the resolution which I have just read misses the thought of the group of which I chance to be, and have for a number of years, been their head.

The American Jewish Congress is, as the speaker is, a devout believer in the significance—I am, perhaps because I am a theologian—of, I almost use the term, the sacredness of democracy.

I sometime say, for example, Mr. Chairman and gentlemen, I have two religions. One is the religion of my ancestral people, Israel. The other is democracy.

Democracy for me is not a form of government, a political name and term. To me it is a religion.

When I use the term "religion" I use the term literally. "Religion" is that which binds together, originally God and man, the vision of God by man.

But to me, democracy is a religion which binds men together, and will ultimately bind all men in the bond of brotherhood, in the liberating bond of brotherhood, irrespective of race and faith.

I am of the Hebrew race. Of course, I am just as much of an Aryan as you, Senator Ellender. I mean, just as truly a member of the white race, whatever the "white race" may mean.

Senator ELLENDER. Caucasian.

Dr. WISE. I beg your pardon?

Senator ELLENDER. Caucasian race.

Dr. WISE. Caucasian race.

But, Mr. Chairman, I belong to the Semitic division, which is not a contemptible division of the Caucasian race, seeing that it gave to the world the patriarchs, the judges, the prophets, the kings, and the apostles, beginning with Abraham and culminating in the supreme figure of Jesus of Nazareth, who was as truly a Jew as I am, who never left the Jewish faith—may I be permitted to observe parenthetically—who was born a Jew, the child of a Jewish mother, Mary—Miriam was her Hebrew name—who remained a Jew in all his teachings and practices, who merely exemplified, perhaps transcended Jewish teaching in the nobility—you believe in the Divinity—of the manner of his life.

So, Mr. Chairman, I feel the American Jewish Congress is rendering a service to the Republic. I use the term "Republic" advisedly, for the benefit of Senator Ives.

Senator Ives. The same way you used the term "democratic" for Senator Ellender.

Dr. WISE. Thank you.

I used the word "democratic" without any connotations, you may be sure.

We are seeking to render a service to the Republic by insisting that there should be no violation of the fundamental right of a man to work. And permit me to say this, for example, Senator Ellender, if I may be permitted for a moment to quote you.

I do not quote you literally but in the substance of your query of Mr. Kovner: "Shall a man be compelled to employ people whom he does not wish to employ?"

Yes; he shall be compelled under the Ives bill, if it becomes law, as I believe it should become law, in toto.

He should not be compelled to employ certain people. He should be denied the right to deny employment to men or women because of race, faith, color, or ancestral origin.

This bill does not say that you, sir, shall employ these people as farm hands in your cotton fields, but it does say that you have no right to say to this man, "I do not want that man. I will not employ him. He is a Jew. I do not want that man. He is a Negro. I do not want that man. He is a Mexican."

American citizens are entitled to the right to work without abatement or limitation because of color and race. At least that is my faith, and my faith as an American citizen, to whom Americanism is not merely a bit of political nomenclature but an expression of my fundamental faith.

I would as soon think of giving up the faith of my fathers, infinitely precious to me, as I would think of giving up my faith in the rightfulness and in the serviceableness and in the high origin, going back as it does, to pentateuchal origins of democracy.

Forgive me, Mr. Chairman, if I wax too earnest about it. It all means so much to me.

I am not appearing here as a special pleader. I am here as the priest of the Congress and as one of the "veteran Jewish leaders"—I use the term in quotation marks and not without regret—to express my faith and the faith of those who have chosen me to be their leader.

The discrimination in employment we have met in my own State, in the synagogue of which I am the rabbi, in Scituate, through the Ives-Quinn bill. Senator Ives introduced that bill nearly three years ago, or two and a half years ago. I gave my utmost support to the bill, as one of a multitude.

Senator Ives. You did the greatest job of all on that.

Dr. Wise. Thank you. I agree with you.

Senator Ives. You and I generally are in agreement.

Dr. Wise. Yes, sir; excepting on one thing which I shall not name at this moment.

Senator Ives. I comprehend that.

Dr. Wise. You may change your mind yet. I will not.

Seriously, that Ives-Quinn bill, creating the Commission—Mr. Charles H. Tuttle was special counsel and did a beautiful job at your side.

Senator Ives. He was supposed to be here yesterday but was taken ill on his way to the train, and is in the hospital.

Dr. Wise. He is a great citizen and a great jurist, and he rendered a very distinguished service, did he not, Senator?

Senator Ives. He certainly did. Without him, we could not have done anything.

Dr. Wise. He did awfully well. That bill became law and it has effected a grand change, Mr. Chairman.

It has vastly improved the spirit of equality of treatment of workers. There are some violations and the bill would have to be improved. I think the Senator will admit that. In time there may have to be some slight changes introduced, but it has worked wonders, Mr. Chairman.

Now, what we New Yorkers want, we do not want the millennium in New York alone. We would like it in Louisiana.

Senator DONNELL. How about in Missouri?

Dr. Wise. Oh, Missouri, as the home of a President, already has it.

We feel that the Ives-Quinn law, in my own State, should be the guide, and I think Senator Ives has made it the guide, have you not?

Senator Ives. That is the pattern on which this present bill is based.

Dr. Wise. That is the model.

I have a statement here showing the differences in the bills. Perhaps it has been shown to you, although you are perfectly familiar with it. I submit for the record, the statement of differences between the Ives bill we are considering, 984, and the Ives-Quinn law in the State of New York, and the bill introduced by Senator Chavez—was it a year ago or 2 years ago?

Senator ELLENDER. At the last Congress, S. 101.

Senator DONNELL. S. 101.

Dr. Wise. I might submit this for the record.

Senator DONNELL. Very well. We will receive it for the record.

(The statement referred to is as follows:)

Chief points of difference between Ives bill (S. 884, 80th Cong.) and National Labor Relations (Wagner) Act

Subject	Ives bill	National Labor Relations Act
1. Application to Federal Government.	Applicable to agencies of Federal Government (sec. 3 (b)). Compliance with orders to be obtained by President (sec. 10).	Not applicable (sec. 2 (2)).
2. Application to Federal contractors.	President to make rules to prevent discrimination by Federal contractors employing 50 or more employees; enforceable by Commission (sec. 10).	Not applicable unless engaged in interstate commerce.
3. Limitation as to number of employers.	Applies only to employers of 50 or more employees (sec. 3 (b)).	No limitation.
4. Other exemptions.	Exempts nonprofit religious, charitable, fraternal, social, educational, or sectarian organizations (sec. 4).	Exempts persons subject to Railway Labor Act, agricultural laborers, domestic employees (sec. 2 (2) and (3)).
5. Enforcing agency.	7 members (sec. 6 (a)).	3 members (sec. 3 (a)).
6. Exclusive power.	No provision.	Power of National Labor Relations Board to prevent unfair practices is exclusive (sec. 10 (a)).
7. Charges by private parties.	Sworn written charge must be filed by or on behalf of person claiming to be aggrieved (sec. 7 (a)).	Charge may be filed by anyone even though not aggrieved and need not be sworn to (sec. 10 (b)).
8. Charges by Commission.	Charge may be filed by member of Commission (sec. 7 (a)).	No provision.
9. Conciliation.	Commission must endeavor to eliminate unlawful practice by informal methods before issuing complaint (sec. 7 (a)).	No requirement of informal conciliation efforts at any stage of case.
10. Conciliation efforts in evidence.	Nothing said or done during conciliation efforts may be used in evidence.	No limitations on use as evidence.
11. Issuance of complaint.	Commission serves verified charge filed by complainant (sec. 7 (b)).	Board prepares and issues complaint in its own name (sec. 10 (b)).
12. Notice of hearing.	10 days' notice must be given (sec. 7 (b)).	6 days' notice must be given (sec. 10 (b)).
13. Hearing officer.	Hearing officer must be resident of judicial circuit where violations occurred (sec. 6 (f)).	No limitation (sec. 10 (b)).
14. Rules of evidence.	No provision.	Rules of evidence not controlling in Board hearings (sec. 10 (b)).
15. Adjudication.	Sec. 7 (k) adopts sec. 5 (c) of Administrative Procedure Act providing for separation of functions of hearing officers.	No provision.
16. Declaratory orders.	Sec. 7 (k) adopts sec. 5 (d) of Administrative Procedure Act authorizing agency to issue declaratory orders.	Do.
17. Ancillary procedural matters.	Sec. 7 (k) adopts sec. 6 of Administrative Procedure Act governing interventions, subpoenas, denials of motions, etc.	No similar detailed provisions.
18. Hearings.	Sec. 7 (k) adopts sec. 7 of Administrative Procedure Act governing powers of hearing officer, burden of evidence, etc.	No provision.
19. Decision.	Sec. 7 (k) adopts sec. 8 of Administrative Procedure Act as to report by hearing officer, tentative findings, right to file briefs, etc.	Do.
20. Hearing before agency.	3 members of Commission must hear oral argument after hearing (sec. 7 (d)).	Do.
21. Scope of judicial review.	Incorporates Administrative Procedure Act (sec. 8 (a)). Sec. 10 (e) of that act gives broad ground to review; findings must be sustained by substantial evidence on the whole record and must not be arbitrary or capricious.	Board fact findings conclusive in court if supported by evidence (sec. 10 (e)).
22. Adoption of rules and regulations.	Commission may make "suitable" rules, subject to Administrative Procedure Act, but Congress may nullify them by concurrent resolution (sec. 13).	Board may make "necessary" rules (sec. 6 (a)).
23. General powers of investigation.	Commission given broad powers of investigation and study (sec. 6 (d), (g) (8)).	No provision.
24. Advisory bodies.	Commission may create local and regional advisory bodies of representative citizens to study discrimination and foster good will (sec. 6 (g) (7)).	Do.

Chief points of difference between Ives bill (S. 984, 80th Cong.) and National Labor Relations (Wagner) Act—Continued

Subject	Ives bill	National Labor Relations Act
25. Assistance to persons subject to act.	Commission may furnish employers subject to act technical assistance to further compliance (sec. 6 (a) (4)). It may assist employers whose employees refuse to cooperate (sec. 6 (a) (5)).	No provision.
26. Limitation on filing charges.	Charges must be filed within 1 year of violation (sec. 7 (b)).	No time limitation on filing charges.
27. Criminal penalties.	Up to \$500 and/or 1 year for forcible interference with Commission agents (sec. 14).	Up to \$5,000 and/or 1 year for willful interference with Board agents (sec. 12).
28. Notices.	Employers and unions must post notices on their premises describing act (sec. 11).	No provision.
29. Veterans.	Act not to be construed as modifying rights of veterans (sec. 12).	Do.

Chief points of difference between Ives bill (S. 984, 80th Cong.) and Ives-Quinn law against discrimination (New York Statute Laws, 1945, ch. 118)

Subject	Ives bill	New York law
1. Application to Government.	Applicable to agencies of Federal Government (sec. 3 (b)); Commission may request President to obtain compliance (sec. 10); not applicable to States and municipalities (sec. 4).	States and municipalities not expressly included or excluded but have been held subject to law by attorney general.
2. Application to Government contractors.	President to make rules to prevent discrimination by Federal contractors employing 50 or more employees; enforceable by Commission (sec. 10).	Not applicable unless otherwise included.
3. Limitation as to number of employees.	Applies only to employers of 50 or more employees (sec. 3 (b)).	Applies only to employers of 6 or more employees (sec. 127 (5)).
4. Other exemptions.	Exempts nonprofit religious, charitable, fraternal, social, educational, or sectarian organizations (sec. 4).	Nonprofit social clubs, fraternal, charitable, educational, or religious organizations (sec. 127 (6)).
5. Illegal discrimination by employers.	To refuse to hire, discharge, or otherwise discriminate because of race, etc. (sec. 5 (a) (1)); to recruit employees through employment agency, union, or other source which discriminates (sec. 5 (a) (2)).	To refuse to hire, discharge, or discriminate because of race, etc. (sec. 131 (1)).
6. Illegal discrimination by unions.	To discriminate against any person or to classify membership so as to deprive such person of employment opportunities or otherwise affect his status as an employee or applicant for employment or his working conditions, because of race, etc. (sec. 5 (b)).	To expel from membership or discriminate in any way against its members or any employer or individual employed by an employer because of race, etc. (sec. 131 (3)).
7. Illegal inquiries, advertisements, etc.	No provision.	For an employer or employment agency to print any statement, use any application form or make any inquiry which expresses any limitation on employment as to race, etc., unless based on a bona fide occupational qualification (sec. 131 (3)).
8. Illegal aiding and abetting.	do.	For any person to aid, abet, etc. the commission of any act made illegal under this act (sec. 131 (3)).
9. Enforcing agency.	National Commission Against Discrimination in Employment; 7 members (sec. 6 (9)).	State Commission Against Discrimination; 5 members (sec. 129).
10. Conciliation efforts in evidence.	Nothing said or done during conciliation efforts may be used in evidence (sec. 7 (a)).	Commission shall not disclose what transpires during conciliation efforts and such efforts shall not be used in evidence (sec. 132).
11. Notice of hearing.	10 days' notice must be given (sec. 7 (b)).	No provision.
12. Hearing officer.	Hearing officer must be resident of judicial circuit where violations occurred (sec. 6 (1)).	Hearing is held before 3 members of the commission (sec. 132).
13. Rules of evidence.	No provision.	Rules of evidence not controlling in Commission hearings (sec. 132).

Chief points of difference between Ives bill (S. 984, 80th Cong.) and Ives-Quinn law against discrimination (New York Statute Laws, 1945, ch. 118)—Con.

Subject	Ives bill	New York law
14. Other procedural matters.	Bill incorporates provisions of Administrative Procedure Act dealing with separation of functions, declaratory orders, interventions, burden of evidence, etc. (sec. 7 (k)).	No similar detailed provisions.
15. Hearing before agency.	3 members of Commission must hear oral argument after hearing (sec. 7 (b)).	No provision.
16. Scope of judicial review.	Incorporates Administrative Procedure Act (sec. 8 (a)). Sec. 10 (c) of that act gives broad ground of review; findings must be sustained by substantial evidence on the whole record and must not be arbitrary or capricious.	Commission fact findings conclusive in court if supported by sufficient evidence on the record as a whole (sec. 133).
17. Adoption of rules and regulations.	Commission may make "suitable" rules, subject to Administrative Procedure Act, but Congress may nullify them by a concurrent resolution (sec. 131).	Commission may make "suitable" rules (secs. 130 (b), 132).
18. Assistance to persons subject to act.	Commission may furnish employers subject to act technical assistance to further compliance (sec. 6 (g) (4)).	Employers whose employees refuse to cooperate may file complaint with Commission asking assistance by conciliation or other remedial action (sec. 132).
19. Limitation on filing charges.	Charges must be filed within 1 year of violation (sec. 7 (b)).	Charges must be filed within 90 days of violation (sec. 132).
20. Criminal penalties.	Up to \$500 and/or 1 year for forcible interference with commission agents (sec. 11).	Up to \$500 and/or 1 year for willful interference with commission agents or willful violation of commission order (sec. 134).
21. Notices.	Employers and unions must post notices on their premises describing act (sec. 11).	No provision; but notices required by rule of commission.
22. Veterans.	Act not to be construed as mollifying rights of veterans (sec. 12).	No provision.

Chief points of difference between Ives bill (S. 984, 80th Cong.) and Chavez bill (S. 101, 79th Cong.)

Subject	Ives bill	Chavez bill
1. Findings.	Act intended in part to fulfill obligation of United Nations Charter (sec. 2 (c)).	Findings contain no reference to treaty obligations (sec. 1).
2. Application to United States Government.	Applicable to agencies of Federal Government (sec. 3 (b)). Commission may request President to obtain compliance (sec. 10).	Applicable to agencies of Federal Government (sec. 18 (2)). President required to secure compliance with orders, and Federal employee who violates order to be discharged (sec. 4 (c)).
3. Application to Federal contractors.	President to make rules to prevent discrimination by Federal contractors employing 50 or more employees, whether or not engaged in interstate commerce; enforceable by Commission (sec. 10).	Applicable to Federal contractors and sub-contractors employing 6 or more employees whether or not engaged in interstate commerce (sec. 4 (a)).
4. Application to States	Act not applicable to States, municipalities, or political subdivisions (sec. 4).	No provision.
5. Limitation as to number of employees.	Applies only to employers of 50 or more employees (sec. 3 (b)).	Applies only to employers of 6 or more employees (sec. 4 (a)).
6. Other exemptions.	Exempts nonprofit religious, charitable, fraternal, social, educational, or sectarian organizations (sec. 4).	No other exemptions.
7. Illegal practices of employers.	To refuse to hire, discharge, or otherwise discriminate because of race, etc. (sec. 5 (a) (1)); to recruit employees through employment agency, union, or other source which discriminates (sec. 5 (a) (2)).	Same (sec. 3 (a)).
8. Illegal practices of unions.	To discriminate against any person or to classify membership so as to deprive such person of employment opportunities or otherwise affect his status as an employee or applicant for employment or his working conditions, because of race, etc. (sec. 5 (b)).	To deny full membership rights or to expel any person or to discriminate against any member, employer or employee because of race, etc. (sec. 3 (b)).

Chief points of difference between Ives bill (S. 984, 80th Cong.) and Chavez bill (S. 101, 79th Cong.)—Continued

Subject	Ives bill	Chavez bill
9. Enforcing agency....	National Commission Against Discrimination in Employment, 7 members (sec. 6 (a)).	Fair Employment Practice Commission, 5 members (sec. 6).
10. Charges by private parties.	Sworn written charge must be filed by or on behalf of person claiming to be aggrieved (sec. 7 (a)).	Charge may be filed by anyone even though not aggrieved and need not be sworn to (sec. 10 (b)).
11. Charges by Commission.	Charge may be filed by member of Commission (sec. 7 (a)).	No provision.
12. Conciliation.....	Commission must endeavor to eliminate unlawful practice by informal methods before issuing complaint (sec. 7 (a)).	No requirement of informal conciliation efforts at any stage of case.
13. Conciliation efforts in evidence.	Nothing said or done during conciliation efforts may be used in evidence (sec. 7 (a)).	No limitation on use as evidence.
14. Issuance of complaint.	Commission serves verified charge filed by complainant (sec. 7 (b)).	Commission prepares and issues complaint in its own name (sec. 10 (b)).
15. Hearing officer.....	Hearing officer must be resident of judicial circuit where violations occurred (sec. 6 (f)).	No limitation (sec. 10 (b)).
16. Adjudication.....	Sec. 7 (k) adopts sec. 5 (c) of Administrative Procedure Act providing for separation of functions of hearing officer.	No provision.
17. Declaratory orders....	Sec. 7 (k) adopts sec. 5 (d) of Administrative Procedure Act authorizing agency to issue declaratory orders.	Do.
18. Ancillary procedural matters.	Sec. 7 (k) adopts sec. 6 of Administrative Procedure Act governing interventions, subpoenas, denials of motions, etc.	No similar detailed provisions.
19. Hearings.....	Sec. 7 (k) adopts sec. 7 of Administrative Procedure Act governing powers of hearing officer, burden of evidence, etc.	No provision.
20. Decision.....	Sec. 7 (k) adopts sec. 8 of Administrative Procedure Act, as to report by hearing officer, tentative findings, right to file briefs, etc.	Do.
21. Hearing before agency.	3 members of Commission must hear oral arguments after hearing (sec. 7 (d)).	Do.
22. Scope of judicial review.	Incorporates Administrative Procedure Act (sec. 9 (a)). Sec. 10 (e) of that act gives broad ground of review; findings must be sustained by substantial evidence on the whole record and must not be arbitrary or capricious.	Incorporates provisions of National Labor Relations Act under which Board findings are conclusive in court if supported by substantial evidence (sec. 10 (e)).
23. Adoption of rules and regulations.	Commission may make "suitable" rules, subject to Administrative Procedure Act, but Congress may nullify them by concurrent resolutions at any time (sec. 13).	Commission may make "suitable" rules which become effective in 60 days unless Congress nullifies them or adjourns within 30 days (sec. 12).
24. General powers of investigation.	Commission given broad powers of investigation and study (sec. 6 (d), 6 (g) (6)).	Commission shall make reports on causes of and means of alleviating discrimination.
25. Advisory bodies.....	Commission may create local and regional advisory bodies of representative citizens to study discrimination and foster good will (sec. 6 (g) (7)).	No provision.
26. Assistance to persons subject to act.	Commission may furnish employers subject to act technical assistance to further compliance (sec. 6 (g) (4)). It may assist employers whose employees refuse to cooperate (sec. 6 (g) (5)).	Do.
27. Limitation on filing charges.	Charges must be filed within 1 year of violation (sec. 7 (h)).	No time limitation on filing charges.
28. Criminal penalties....	Up to \$300 and/or 1 year for forcible interference with Commission agents (sec. 14).	Up to \$5,000 and/or 1 year for willful interference with Commission agents (sec. 14).
29. Notices.....	Employers and unions must post notices on their premises describing act (sec. 11).	No provision.
30. Veterans.....	Act not to be construed as modifying rights of veterans (sec. 12).	Do.

Dr. Wise. That really covers what I wish to say, except, Mr. Chairman, you cannot control discrimination without the help of legislation.

Now, Senator Ellender is a good Christian. He may be tempted to ask me, "But, Dr. Wise, don't you believe in changing the hearts of men?"

Yes; I do believe in it and my business in life is to touch and to change the hearts of men and to make them feel aright and to think aright and to act aright.

At the same time, there are segments of life in which the law and law enforcement must come to the reinforcement of anything that may be done to educate men.

We cannot let violations of the right of a man, whether he be white, black, Christian, Catholic, Protestant, or Jew, to employment be denied, because we are for the moral regeneration of men.

I certainly believe in that as a religion, and as an ethical teacher, but I am not prepared to let Mr. Smith continue to discriminate in employment against Negroes or Mexicans or Jews or southerners on the ground that they are not hard workers and inclined to be indolent, which I have heard, and you have heard it, too, Senator Ellender.

I urge, Mr. Chairman, and gentlemen of the Senate committee, that this bill be enacted into law.

You will remember, you as a Senator know far better than I, a mere theologian, that in the prewar days, we had a great measure of discrimination in the field of employment. Because of the pressure of manpower shortage that was dropped during the war. Now, there is a very real danger, and I fancy that that moved Senator Ives to introduce the bill, that there will be a reversion to the prewar discrimination. It ended during the war.

Now, we feel that it is needed to adopt such legislation as the bill we are considering now, in order to avert a recurrence to prewar standards in sins of discrimination.

And you know, Mr. Chairman—know it better than I—that this is always a part of a vicious circle—discrimination intensifies prejudice, leads to strife and dividedness in American life. Then prejudice, in turn, intensifies discrimination.

It is really what the legends call *circulum vitiosum*, an empoisoning and killing vicious circle.

I wonder whether you happen to recall—and of this my memorandum reminds me—that in Detroit when there were those race riots a few years ago—I think it was 1945 or 1944—

Senator ELLENDER. 1945.

Dr. Wise. Thank you, sir.

Senator ELLENDER. On housing, I remember. I was consulted on those.

Dr. Wise. In factories and shops and places of employment where there was no discrimination, there was no trouble. It was where there was the maximum discrimination that there occurred the maximum of disturbance and rioting. That is something to be borne in mind, Mr. Senator.

Mr. Chairman, I say to you earnestly, on behalf—and I think I do not speak merely for my fellow Jews. I do not know whether the Federal Council of the Churches of Christ is to appear in this connection.

Senator DONNELL. It has been represented by Dr. Boyd, who spoke yesterday.

Dr. WISE. It has already been represented?

Senator DONNELL. Yes, sir.

Dr. WISE. Did he take a position such as my own?

Senator DONNELL. Generally speaking, I would say so.

Dr. WISE. Generally.

I think this truly represents the highest, finest Christian sentiment in America, and Christianity has not been abolished in the South, has it, yet, Mr. Senator?

Senator ELLENDER. No, indeed.

Dr. WISE. It is the highest Christian sentiment.

Even though I am a Jew and a rabbi, my relations with the Federal Council and Dr. Cavert, and its leadership and its president, are such as to give me the right to say that Christians worthy of the name hate discrimination, reprehend it as violative of the basic ideals of Christianity, and I say to you, Jew, and rabbi, that they are deeply and sinfully violative of the fundamental and basic right in democracy.

Thank you.

Senator DONNELL. Dr. Wise, you have presented also a mimeographed statement.

Dr. WISE. I have.

Senator DONNELL. Would you like to have that also incorporated in the record?

Dr. WISE. It does not have to be published in the Congressional Record, does it?

Senator DONNELL. No; but in the record of the proceedings of our committee.

Dr. WISE. Oh, in the proceedings of the committee, Mr. Chairman; I should like it in the proceedings.

Senator DONNELL. Very well. It will be so incorporated.

Dr. WISE. Thank you.

(Dr. Wise submitted the following brief:)

STATEMENT OF DR. STEPHEN S. WISE, PRESIDENT, AMERICAN JEWISH CONGRESS,
JUNE 12, 1947

1. PRELIMINARY STATEMENT

The American Jewish Congress was organized in part " * * * to help secure and maintain equality of opportunity for Jews everywhere, and to safeguard the civil, political, economic, and religious rights of Jews everywhere." Our movement recognizes fully that equality of opportunity for Jews can be truly secured only in a genuinely democratic society. Accordingly, we seek to fight every manifestation of racism, to promote the civil and political equality of all groups and persons in America, and to support measures designed to safeguard civil liberties and to build a better America. We regard ethnic discrimination, whether directed against Jews, Negroes, Chinese, Mexicans, or any other group, as a single and indivisible problem and as one of the most urgent problems of democratic society.

Nothing more gravely threatens American democracy today than the fact of its incompleteness. Democracy to be secure must be complete. An incomplete democracy is an insecure democracy. Despite all the progress we have made, American democracy remains alarmingly incomplete because millions of our fellow citizens are still being denied their legitimate democratic rights and full equality of treatment on account of their race, color, creed, or national origin.

In no area is this denial of democratic rights more serious or destructive than in the field of employment—the denial of work or promotion to qualified applicants solely because of racial or religious considerations.

Such discrimination in employment severely affects not only the particular groups against which it is directed but the entire Nation. When members of these groups are denied jobs for which they are qualified, they are forced to accept less remunerative employment or none at all. The living standards of these groups are thus lowered and their members discouraged from developing their skills and special abilities. The Nation loses an important source of skill and manpower and lowering the living standards of any group in the country adversely affects the economy as a whole.

No less serious are the indirect effects which flow from the self-perpetuating character of discrimination. Existing patterns of discriminatory practice strengthen and reinforce racial prejudice; and this prejudice in turn fosters and encourages still further discrimination. If we are to shatter the barriers of prejudice by which our country is still divided, we must destroy those discriminatory practices on which prejudice feeds. The country is challenged by the urgent need of breaking the vicious circle of discrimination and prejudice. It can be broken only by attacking racism at those points where it expresses itself in overt social and public practice rather than in the minds and hearts of men. That, I consider to be the aim and purpose of S. 984. That, I believe, was equally the aim of the Republican Party when, in its 1944 platform, it unequivocally declared: "We pledge the establishment by Federal legislation of a permanent Fair Employment Practices Commission." That, too, is why the American Jewish Congress has for years strongly supported and vigorously fought for such legislation. On May 1, 1947, its administrative committee, the highest policy making body between conventions, urged "speedy enactment" of the Ives bill. I am submitting a copy of that resolution with this statement.

2. THE FACTS

It is hardly necessary to demonstrate that discrimination in employment exists on a large scale in this country. Evidence of that fact abounds on all sides. Discrimination against Negroes is strikingly obvious in every State in the Union. Discrimination against Jews, if less apparent, is no less real. I am submitting with this statement a pamphlet, *Who Discriminates—and How*, published by the American Jewish Congress, which summarizes some of the evidence of discriminatory employment practices. The picture that emerges is an ugly and disgraceful one.

Newspapers throughout the country, for example, are filled with help-wanted ads which bluntly specify, "Gentiles only," except in those few States which have already made such advertisements illegal. A survey of four consecutive Sunday issues of two New York City newspapers conducted before the Ives-Quinn law was passed revealed that 32 percent of the 1,800 job offers listed were discriminatory. Employment application blanks almost invariably include such questions as religion, church preference, lineage, etc. Private employment agencies play an important role in this discriminatory picture. Frequently, Jewish applicants are refused or are referred only to Jewish employers. Thus, the Jewish worker is confronted from the outset with the stark indication that in pursuit of employment, his religion will in many cases be held against him. Those applicants who succeed in overcoming these initial obstacles and get to the point of an interview with an employing official discover even more serious barriers in their path to adequate employment.

Worst and more serious violators of the American principle of equality of opportunity are the large concerns which employ thousands of persons. Insurance firms and financial houses almost uniformly maintain a closed-door policy with regard to Jews. Utility companies, despite their semipublic character, engage very few Jews for their staffs. A young Jew with a scientific bent who seeks a start in such new and expanding fields as the aircraft, chemical, or electrical industries is almost always denied the opportunity of proving or demonstrating his merit and ability.

During the war, the situation with regard to Jews improved substantially. The acute manpower shortage helped to break down many existing barriers. There was, thus, ample demonstration during this period that, unlike mountains, these racial barriers could be moved. The postwar period, unfortunately, has already demonstrated that, failing adequate permanent regulation, these barriers can easily and readily be rebuilt. Thus, a survey of discriminatory advertisements in six large cities revealed an increase of 195 percent in such advertising during 1946 and 1949. Two major newspapers which refused to accept such advertisements during the war have abrogated their wartime policy. During the

past 2 years, the number of complaints filed with Jewish agencies has increased by almost 100 percent. One of Chicago's largest employment agencies recently reported that 38 percent of all orders it received were expressly discriminatory; and this figure did not include orders from employers who found it unnecessary to refer specifically to their traditional and known discriminatory practices.

Nor is such discrimination by any means limited to private employment. Even a cursory tour of Government buildings in the Nation's Capital will immediately reveal the rigid segregation of Negro employees in limited job classifications. It is hardly coincidental that, prior to the war, 90 percent of all Negro Federal employees in Washington were in custodial jobs. Government agencies were responsible for 26 percent of the case load of the wartime FEPC. Federal and State placement services throughout the country almost invariably follow local practice with utter disregard of the fact that, as public agencies, they are bound by law to accord equal treatment to everyone. The placid acceptance of this unconstitutional and undemocratic practice is both amazing and highly disturbing.

These facts are common knowledge. What is less widely recognized is that the situation is not improving; it is deteriorating. The growth of new industries from which Jews are barred and the progressive liquidation of small business enterprises through which Jews have sought escape from discrimination render their situation increasingly acute. The growth in the industrial demand for skilled rather than unskilled labor has had a similar effect on Negroes, Latin-Americans, and other groups who have been forced to find their chief employment opportunities in menial tasks. There has been no compensating decrease in discriminatory practices. Despite all the talk in recent years about equality and freedom, progress has been made only where that talk has resulted in the enactment of effective legislation to guarantee the democratic rights and equal treatment of all persons.

3. THE CONSEQUENCES

These antidemocratic practices are a matter of vital concern not only to the groups affected but to the Nation as a whole. Reference has already been made to the consequences in terms of the lowering of living standards and to the loss to the Nation of valuable skills and abilities. That lesson was brought home to us during the war only because the situation had reached the point of desperation. But it is no less urgent in the interests of American democracy and security that we apply the lesson in times of peace. Today, we must be no less concerned with the devastating social, psychological, and moral effects of discriminatory practices than we were during the war with their economical effects. We can hardly expect all those who are frustrated in their normal and legitimate ambitions to remain in all respects law-abiding and useful citizens. Individual delinquency and psychological abnormality are the least that can result from the knowledge that so many avenues of employment and advancement are closed because of one's race or religion. Mass unrest, tension, and disturbances are equally inevitable consequences of our antidemocratic practices.

4. THE NEED FOR LEGISLATION

The American Jewish Congress firmly believes that discrimination in employment because of race, religion, color, national origin, or ancestry must be made illegal and we therefore support S. 984. We have little patience or sympathy with the view which argued that such legislation is doomed to ineffectiveness until there has been a change in the minds and hearts of men and the prejudices which many people entertain are dissolved by education or exhortation. Experience has unanswerably revealed that all the talk about brotherhood and equality and tolerance has had virtually no impact on the practice of discrimination and that this antidemocratic pattern has been modified only where we have enlisted the aid of law and public regulation. I have already indicated our conviction that the actual practice of discrimination is one of the major sources on which racial and religious prejudice feeds. Children are not born with these prejudices. Protestant, Catholic, and Jew, Negro and white, live and play and go to school together without self-consciousness until they are corrupted by the facts of the society in which they live. No education for brotherhood or equality can be successful where the principles which education sets forth are constantly contradicted by the stark facts of segregation, discrimination, and inequality. Education against prejudice can make progress only where there has been prior action against discrimination.

That is why we so enthusiastically support S. 984. This legislation is not directed against a state of mind. It does not bid anyone to change his views, or to abandon his prejudices. But it does assert that when these prejudices find expression in acts of discrimination, the Nation and public have a right to demand that these acts must be legalized. They are no longer a matter merely of private conviction. They are a subject of vital public concern. But we assert that by outlawing such action, we shall not only be eliminating one of the most flagrant violations of democratic practice, we shall be taking a major step in the dissolution of prejudice.

These observations are fully supported by even our limited experience. In the Detroit race riot in June 1943, for example, those factories in which the segregation of Negroes and white had been eliminated were islands of stability in a sea of terror. Again and again during the war strikes against the proposed elimination of discrimination were threatened by white workers trained in the habits of prejudice. Yet where a firm policy was pursued and the discriminatory policy abandoned, the strike threats vanished and realistic and effective education in racial and religious equality followed. Where ethnic groups associate on the basis of genuine equality, racial tension does not exist. It prevails only where groups are ranged on opposing sides of an artificial economic barrier.

If we are to educate for equality, we must therefore first eliminate and reduce the areas in which inequality prevails. Passage of S. 984 may still leave pockets of die-hard resistance. But it will greatly enlarge the area in which Jews and Christians, Negroes and whites, work side by side. This alone will provide millions of our citizens with the most effective education in democratic living.

Some employers continue to argue for their right to practice their prejudices in the selection of the persons who are to work with them and for them. The social expression of personal racial and religious prejudice is a luxury which democratic society can in no instance afford. In an age of mass production by impersonal corporations the social cost of such luxury is disastrous.

Public-utility companies employing tens of thousands of workers, large automobile manufacturers, airplane lines, railroads and street-transportation companies, insurance firms, and others, which close whole fields of endeavor to large parts of our population, are not indulging the personal predilections of their presidents or boards of directors. They are practicing public policies whose consequences for our national welfare are too costly to tolerate.

We in America recognized decades ago that public regulation of private business was fully justified where such regulation was necessary for the public welfare. I venture to suggest that none of the public interests protected by the regulations now on the statute books is as vital as the Nation's stake in eliminating employment discrimination.

For similar reasons, we believe that labor organizations representing American workers should be prevented by law from discriminatory membership practices. Labor unions no more than business organizations should be permitted to violate democratic principles, and the denial of union membership can be in many instances an insurmountable obstacle to economic opportunity. Both the American Federation of Labor and the Congress of Industrial Organizations have recognized their democratic obligations, both through the campaigns many of their unions have waged against discriminatory practices in their midst and in their statesmanlike endorsement of the present bill. Armed with its provisions, labor leadership can be relied upon to secure compliance with the law without compulsory action by the Government. In New York State, since the passage of the Ives-Quinn law, all unions operating in the State have brought their constitutions, bylaws, and practices into conformity with State legislation.

Above all, however, discrimination in employment by the Federal Government must cease immediately. Nothing can more seriously set back the cause of equality in employment opportunity than the bad example too frequently set by governmental agencies. Such practice is already forbidden by the Constitution. But the absence of machinery for the enforcement of the constitutional guaranties enables its continuance. The Congress of the United States has not only the unquestionable right and power but the inescapable moral duty to stamp out this pernicious practice.

Though I shall refer to it but briefly, there is today another aspect of this problem of discrimination in our midst of great importance—its international implications. Our adherence to the charter of the United Nations bound this country to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." Throughout the world nations are looking to this country for demo-

cratic leadership. It is only natural that they should do so because we have led the world in developing the concepts and practice of liberty and freedom. But as the nations look at us closely, they see many things which disgrace and tarnish our record. They see too great a gap between our professions and our practices. Despite our obligations under the United Nations Charter, we continue to deny, through discrimination and segregation, the democratic rights of many of our citizens because of their race and color. As a result, these nations inevitably question our good faith and sincerity. If we are securely to establish our claims to moral and democratic leadership throughout the world, we must take determined and imaginative action to bring our social and public practices into complete harmony with our professions of equality and democracy. The passage of S. 984 would represent that kind of action.

5. THE PROVISIONS OF S. 984

In our view, S. 984 is designed adequately to deal with the problem I have outlined. It draws upon and benefits from decades of experience with administrative enforcement agencies. It follows the pattern laid down by Congress in the Administrative Procedure Act. It is designed to deal with those problems which the wartime FEPC revealed to be the most pressing. And it benefits from experience with similar State laws, particularly that of New York.

That experience has demonstrated that informal conciliation prior to formal action is an essential feature of good government and effective administration. Discriminatory practices are frequently the product of tradition, inertia, and prevailing custom. In such cases, the offender may often require no more than the warning of a Government agency that his practice is morally indefensible and actually illegal. Thus, the wartime FEPC was able to eradicate a good deal of discrimination even without the sanction or power of a legal proscription.

But the experience of the wartime FEPC demonstrated equally clearly the need for legal compulsion. A law which rests solely on moral sanction tends to lose its force and effectiveness after an initial period of enthusiasm. The moral employer is then put at a disadvantage and a premium is placed on evasion of the law. The Ives bill therefore wisely provides a fair procedure for compelling adherence to its provisions.

As an appendix to this statement, I submit charts comparing the Ives bill with three other items of legislation. The first compares the Ives bill with the National Labor Relations Act and indicates the respects in which the former incorporates the procedural reforms which Congress has found desirable in the latter. The second compares the Ives bill with the Ives-Quinn law against discrimination enacted in New York. The third compares the Ives bill with the Chavez bill introduced in the last session of Congress.

6. CONCLUSION

For the various reasons set forth, the American Jewish Congress therefore urges prompt enactment of S. 984. "Peace," declared the poet Milton, "hath her victories no less renowned than war." During the war we mobilized all the resources and strength of this country to defeat those who sought the destruction of democracy and who, if victorious, would have bound the peoples of the world into slavery. Today in peace we have victories no less significant to achieve. Among the most urgent is victory in the campaign against those barriers of prejudice and discrimination which still divide so many of our citizens and which violate our democratic pretensions. By Federal legislation such as S. 984, to abolish such discrimination in employment, we can score a major triumph on one of the most vital and strategic battle fronts of that campaign.

Senator DONNELL. Senator Ellender, would you like to interrogate the witness?

Senator ELLENDER. Just a few questions.

Dr. Wise, are you well acquainted with conditions in the South, the relationship of races, as it has been developing, oh, for the past 75 years?

Dr. WISE. I think, as a not wholly unintelligent and as a not wholly uneducated American citizen I cannot be unfamiliar with what has developed in the South in the last 75 years.

Senator ELLENDER. I mean, the relationship between the colored and the whites?

Dr. WISE. Yes. I am not unfamiliar with it.

I will not say I know, but I am not unfamiliar.

Senator ELLENDER. Are you against the segregation laws that the South has had on the statute books, that is most of the Southern States, for quite some time?

Dr. WISE. I am against any and every segregation law which violates basic rights of an American citizen.

Of course, I must say at once, Mr. Senator, I do not wish to be, and I do not think I am under any obligation to discuss racial relationships and political ideologies. I am here to discuss the Ives bill, which I favor and let me make myself as clear as I can make myself.

I believe that a Negro has just the same right to employment that a white man has in every State in the Union.

Senator ELLENDER. So do I.

Dr. WISE. And that no such—

Senator ELLENDER. So do I. Why qualify it? We are not apart on that opinion.

Dr. WISE. Good.

Senator ELLENDER. And I think that the South with its meager means has taken better care of the colored people than has the North.

Dr. WISE. People do not want to be taken care of in a democracy. They demand the right to shape their lives and to have the opportunity within the law to—

Senator ELLENDER. But you forget, Dr. Wise, that the ancestors of those colored people were slaves before the War Between the States.

Dr. WISE. I have never forgotten the wrong of slavery.

Senator ELLENDER. And they were not far removed from the dark jungles of Africa.

We had the obligation, we had the duty to bring them up.

Dr. WISE. Yes.

Senator ELLENDER. We were their guardians, as it were. And I think that we have made marvelous progress; and as I said yesterday—

Dr. WISE. No; you have not.

Senator ELLENDER. No? Then give us more money, for that is what we are trying to get now out of this Congress, for education.

Dr. WISE. Education?

Senator ELLENDER. Exactly, sir.

Dr. WISE. I believe in it.

Senator ELLENDER. I was a member of the Legislature of Louisiana for many years, as I said yesterday—you were not here—and 30 years ago the amount appropriated for whites and colored in education—

Dr. WISE. Was equal?

Senator ELLENDER. No, sir. Louisiana today is appropriating as much money to educate the colored people as it expended for whites and blacks 30 years ago.

Today, in our hospitals—

Dr. WISE. Thirty years ago?

Senator ELLENDER. Yes.

Dr. WISE. But the standards of life are, of course, greatly different, and wages and pay.

Senator ELLENDER. Certainly.

Dr. WISE. Of course, that does not mean anything to me. I have not enough mathematical sense to comprehend the significance of that remark.

Senator ELLENDER. But I am just trying to tell you, sir, of the problem that we have faced and solved.

Dr. WISE. Yes, oh, of course, you face grave problems.

Senator ELLENDER. Of course, we do; and that is why I would like for advocates of such bills as this to be better acquainted with our problem and to consider the effect that it would have, not on us, but on the people we are trying to help down South.

You know the old saying, "You may lead a camel to water but you can't make him drink."

Senator IVES. Lead a horse, I think, Senator.

Dr. WISE. The camel is used, in compliment to me, as a Semite, because camels are the animals of burden in the part of the world from which my ancestors came, after they gave the Christian world the Decalogue.

Senator ELLENDER. Dr. Wise, I would like to ask you this question.

Dr. WISE. Yes, sir.

Senator ELLENDER. Suppose after the war the States of the South had not seen fit to pass segregation laws, and the large colored population would have been permitted to mingle with the whites on a social equality plane, do you not think that that fraternizing would have led to intermarriage?

Such association, to my mind, would no doubt have led to such intermarriage. Do you agree with that?

Dr. WISE. Will you forgive me for saying, Senator Ellender, your question is interesting, but I cannot see its relevance to the problem that I have been privileged to discuss here, the Ives bill.

Senator ELLENDER. I am asking you the direct question. If you do not want to answer it, you do not have to.

Dr. WISE. I cannot see its relevance. I have the greatest respect for you, Senator—

Senator ELLENDER. It may not be relevant according to your viewpoint but I have asked you a question. If you care to do so, answer it. If you do not, it is all right.

Dr. WISE. I think that the white people of the South do some things well and some things ill, and subconsciously you used a phrase, Mr. Senator, which I think indicates an utterly Aryan state of mind in the South.

Senator ELLENDER. A what?

Dr. WISE. "Haven't we cared for the colored people in the South better than you in the North have?"

The Negro people are entitled to the right to care for themselves. They will never be able to care for themselves as long as discrimination in employment is permitted. That is the thing I am interested in. I am not interested in remote social theories. I have never paused to consider, because it is not a reality, the question of social relationship leading to intermarriage.

And then, Mr. Senator, you will forgive me for saying, there has been a great deal of living on the part of white men with colored women in relationships illegal and unpermissible, illicit, and that does

not seem to be decried with anything like the earnestness with which intermarriage is decried and feared by the white people of the South.

Is not that true?

Senator ELLENDER. Yes; we have had that disgrace in the South as you are having it in the North. There is no question about it, but I will say that I have never seen as many half-breeds below the Mason-Dixon's line as I have seen above it.

Dr. WISE. There is an immense amount.

Senator ELLENDER. I will not question you further, because, as you indicate, you do not care to express an opinion on it, or you say it is not relevant.

Dr. WISE. I came here as president of the American Jewish Congress empowered to discuss the Ives bill, which I favor with all my heart. I have no authorization from the congress to discuss—and I am its servant as well as its president—to discuss the problem of racial social relations, intermarriage, promiscuity. I am perfectly willing to have a public debate with you, Mr. Senator, poor and old as I am, on that whole question, but not in this room.

Senator ELLENDER. Very well.

Senator DONNELL. Thank you very much, Dr. Wise, for coming, and we appreciate your statement.

Dr. WISE. It is a very great honor to have come and sat with you and presented the viewpoint, and the Congress, through me, thanks you for your courtesy, and I hope I have not been discourteous to the Senator.

Senator ELLENDER. No, sir; you have not, and that wish is mutual.

Dr. WISE. I am too old to be discourteous. I learned one thing in 73 years, to be courteous to men in authority.

Senator DONNELL. Mr. Chat Paterson, legislative representative of the American Veterans Committee.

Mr. PATERSON. Mr. Chairman, I am Chat Paterson.

Mr. Gilbert Harrison, who is our national vice chairman and one of the founders of the American Veterans Committee, is here and would like to present our testimony today.

Senator DONNELL. What is his name?

Mr. PATERSON. Gilbert Harrison.

Senator DONNELL. Very well.

You do not appear today?

Mr. PATERSON. No, sir. Mr. Harrison is going to appear for us.

Senator DONNELL. Mr. Harrison, would you come forward?

Please state your full name, address, and connection in which you appear.

STATEMENT OF GILBERT HARRISON, NATIONAL VICE CHAIRMAN, AMERICAN VETERANS COMMITTEE

Mr. HARRISON. My name is Gilbert A. Harrison.

I am the national vice chairman of the American Veterans Committee. My home is in California. I am now working with the American Veterans Committee in New York, and I will present testimony in behalf of the Federal law against discrimination, S. 984, on behalf, officially, of the American Veterans Committee.

Senator DONNELL. What is the American Veterans Committee?

Mr. HARRISON. The American Veterans Committee, sir, is an organization of the veterans of World War II.

Senator DONNELL. How large a membership does it have?

Mr. HARRISON. It has now slightly over 100,000 members organized in all of the 48 States.

Senator DONNELL. Do you have a copy with you of any of its literature, its constitution, its circulars, or anything giving its general background?

Mr. HARRISON. I can leave that with the committee, sir. I believe Mr. Paterson has some of that material.

I do have with me a constitution of the organization, which I will be glad to leave with you now.

(The document referred to was filed with the committee.)

Senator DONNELL. The committee will be in recess for a few minutes, subject to the recall of the Chair.

(Thereupon, at 11 a. m., a recess was taken by the committee.)

Senator DONNELL. The committee will again be in order.

Mr. Harrison, is the American Veterans Committee an organization that has largely the same membership as the American Legion, or is it a different composition and membership?

Mr. HARRISON. I do not know, sir, how many members of the American Veterans Committee also belong to the American Legion.

Our membership, of course, is restricted to those who served in the last war and our organization is not open to those who fought in World War I.

Senator DONNELL. I do not mean to be offensive at all in questioning you, but I want to be frank at the same time.

There has been considerable criticism of the American Veterans Committee on the general ground that it represents what I might term a left-wing composition of our population; that is correct, is it not?

Mr. HARRISON. I have read such criticism, sir.

Senator DONNELL. And that has been very widely believed in over the United States; is that correct?

Mr. HARRISON. Unfortunately I believe it has been; yes, sir.

Senator DONNELL. Could you tell us anything about the composition of the American Veterans Committee; whether or not there is any communistic tendency of that organization particularly, or anything that would justify, in your judgment, the charge that it does have leanings in that direction?

Mr. HARRISON. I have difficulty in answering the question, Senator, because, although I have read the accusations, I know the composition of our membership, and I know the platform that we have adopted, which I shall file with this committee later today, and I can cite many instances in which the position of the American Veterans Committee is directly opposed to that of the Communist Party, and I can introduce other statements from the Communist publications themselves that have been very critical of the American Veterans Committee.

I will give just one example of what I mean, sir.

The American Veterans Committee from its inception has taken a stand against the granting of a Federal bonus because of our whole point of view, namely, that veterans should be citizens first and veterans second, and should be primarily concerned as a veterans' organization with the building of the entire community rather than for any special privilege of veterans as a class.

Our antibonus stand is consistent with that.

On the other hand, the position of the Communist Party, in its official publications, has been very strongly for a bonus, and they regard our position as idealistic.

That is only one example of a difference of opinion.

I think I can safely say that the stories that have been circulated are without foundation in fact.

Senator DONNELL. Again I do not want you to take offense at this, but I think we should have our record here perfectly clear. It is as to the type of organization and its principles.

Mr. HARRISON. Yes, sir.

Senator DONNELL. Has there been any investigation of your organization that you know of made by the Committee on Un-American Activities of the House of Representatives?

I am not sure whether it has or not, and I want to find out.

Mr. HARRISON. There has been an investigation, sir. It has been done in complete secrecy, because we have never been called before the committee; and, as a matter of fact, I believe that the question was asked of the committee—Mr. Paterson can correct me if I am wrong in this—as to whether they had any interest in the American Veterans Committee, and I believe the answer was a categorical “no.”

I know we have not appeared before the committee.

Senator DONNELL. I do not mean any implication in my question, that it has been. I am asking solely for information, and I did not know.

Mr. HARRISON. I would like also to say, Senator, since you have raised this question, that the statement of policy that was passed by AVC's board of directors some time ago in regard to the Communist Party seems to be one of the clearest and most forthright statements of opposition to the Communist Party in what it proposes for America that I have seen come out of any organization.

Senator DONNELL. Would you mind furnishing us with a copy of that for the record?

Mr. HARRISON. I will also place that in the record.

Senator DONNELL. Very well.

If you will send it to Mr. Rodgers, the clerk of the committee, he will see that it is incorporated.

(The statement on communism referred to follows:)

STATEMENT ON COMMUNISM PASSED BY THE NATIONAL PLANNING COMMITTEE OF THE AMERICAN VETERANS COMMITTEE, AT ITS QUARTERLY MEETING, NOVEMBER 9-11, 1946

In its relatively brief existence as a full-fledged national organization, the American Veterans Committee has dedicated itself to the goal of making peace, full civil liberties, and economic security realities which all citizens, regardless of race, religion, or national origin may enjoy. We of AVC's national planning committee, in working toward those objectives, assigned us by our supreme governing body, our membership, have been determined to maintain our independence as an organization committed to no alliance. Too many forward-thinking organizations in recent years have founded on the rocks of dissension after having permitted themselves, unwittingly or otherwise, to be swayed in their views by the peralant arguments of spokesmen for outside influences who have disguised their real motives under the deceptive cloak of joint action.

The responsibility for the dissolution of so many useful groups can be placed directly upon the American Communist Party, which, recognizing the readiness of progressives to accept the cooperation of seemingly sympathetic individuals,

has continually instructed its members to enter these organizations and attempt to take an aggressive part in their internal affairs.

The party members usually come in crying "Unity." Although they mean unity on their own terms, their plea invariably gets a sympathetic hearing from many progressives who are properly indignant at the endless illiberal mouthings of the leaders of American reaction and whose indignation spurs them into an acceptance of unity on any term. The Communist Party has demonstrated its real attitude toward "unity" time and again, within the framework of progressive groups, by diverting the energies of those groups to matters of peculiar interest to the party and by vilification of sincere liberals who reject the Communist philosophy. By ceaselessly instigating confusion and suspicion, the Communist Party ultimately renders the groups impotent as effective champions of democracy.

Those members of the Communist Party who served in the armed forces, and those veterans who, while not holding membership in the party, unwaveringly pursue its shifting line, have repeatedly been urged by the party's leaders to infiltrate into veterans' organizations. Originally the Communist Party advised those veterans to join the American Legion; more recently it has advised them to join AVO in addition.

The political affiliations of our members are, as a rule, of no concern to us. We are a nonpartisan organization. We do not endorse parties or candidates, and we do not expect our members to subscribe to any particular political point of view. We demand of them, however, that they subscribe to the preamble to our national constitution, which obliges them to agree to "preserve the Constitution of the United States * * * insure the rights of free speech, free press, free worship, free assembly, and free elections * * * maintain full production and full employment in our country under a system of private enterprise in which business, labor, agriculture, and government cooperate."

It is obvious that no Communist Party member can honestly endorse our preamble, but we are aware that such dishonesty does not constitute grounds for expulsion from the Communist Party. We know that those few party members who by false declaration have joined AVO consider their espousal of our principles secondary to their espousal of the principles of the political party to which they pledge unblinking allegiance. Those principles include the ultimate abandonment to the dictatorship of a minority those personal freedoms the American Communist Party professes to defend. We know that their ostensible devotion to our purposes is overshadowed by that greater loyalty which traditionally makes the members of the Communist Party such earnest and relentless workers and enables so few in number to exercise so great an influence.

In this postwar era, the Communist Party has repeatedly called attention to the fact that its present line is, on many issues, consonant with that of many progressive groups. The party has used this partial agreement as an excuse for demanding that progressives cooperate with it in working for the attainment of specific objectives. We regard such proposed cooperation as fatal. The attempts of honest progressives to attain their objectives by intelligent, constructive action have repeatedly been hamstrung or completely nullified by the irrational, ill-considered tactics of the few Communist Party members who have clung leech-like to them and whose sole purpose it is to agitate and confuse, not to achieve reforms where reforms are needed. Their consuming interest is the expansion of their own political power and all organizations are to them merely vehicles for their ride to power. We are particularly outraged by the current efforts of the Communist Party to exploit the hardships of the veteran in order to further the party's selfish political ends.

It would be easy to disavow these Communists if it were their policy to identify themselves for what they are. That is not their policy. The Communist Party is a secret, conspiratorial organization whose members, with few exceptions, take the greatest pains not to disclose their real affiliations. Lasting progress has never been achieved by fraud.

As veterans who believe firmly in the democratic ideals which we have endorsed, we reject the notion that the Communist Party possesses the key to the magic formula whereby the betterment of human welfare can be achieved. We spurn the insincere cooperation of a minority group unquestioningly obeying leaders whose objectives, including a totalitarian dictatorship of the extreme left, are irreconcilable with our own.

In taking this position, we are unhappily aware that we shall be accused from some quarters of having joined forces with those distasteful spokesmen of the right who have loosely and maliciously applied the label "Communist" to any

commendable organizations. We wish emphatically to disassociate ourselves from the red-baiting tactics of the henchmen of reaction, but we cannot let their bad example dissuade us from our determination to make known our stand. The Communist Party rejects the basic convictions of the true American progressive, AVC as an organization of veterans loyal to a tradition of individual liberty can follow no other course than one of conscientious objection to the unprogressive totalitarian doctrines of the American Communist Party. Those whom we ask to join AVC have a right to know the principles underlying this organization and its leadership. We oppose the entrance into our ranks of members of the Communist Party and we shall strive to prevent them, when and if, by subterfuge or deceit, they gain such entrance, from attempting to use AVC as a sounding board for their own perverse philosophy.

Senator ELLENDER. What is your name?

Mr. HARRISON. Gilbert Harrison.

Senator ELLENDER. Mr. Paterson is—

Mr. HARRISON. Our national legislative representative. He is present in the room.

Senator ELLENDER. Where do you live, sir?

Mr. HARRISON. I am temporarily in New York, because that is the temporary headquarters of the AVC.

My home is in California, sir; at least, it was 5 years ago, before the war.

Senator ELLENDER. When were you organized?

Mr. HARRISON. We were organized officially and formally at our first national convention, which was held in Des Moines about a year ago.

AVC up to that time had been a very informal, loose, association of men, many of whom were still in the service. At that convention, the organization was set up on a formal basis.

Senator ELLENDER. Would you know what percentage of your membership belongs to the American Legion?

Mr. HARRISON. I would have no way of knowing, sir, because we do not ask for that information on the application blanks. I know that some are, because I know that the AVC's chairman is a member of the American Legion.

Senator ELLENDER. Are you a member of the American Legion?

Mr. HARRISON. No, sir; I am not. I find I only have time for one organization.

Senator ELLENDER. Would you know any differences, if any, in what you stand for, as against the American Legion?

Mr. HARRISON. I am not qualified to speak on that, Senator. I wish I were. That is merely because I am not sufficiently informed on the American Legion to make an objective comparison.

Senator ELLENDER. What was the idea of having another organization of veterans?

Mr. HARRISON. I believe that the general idea—

Senator ELLENDER. In other words, what prompted the organization?

Mr. HARRISON. I believe the thing that prompted the organization was twofold, really. It was a feeling on the part of many men who had served in this past war that they wanted an organization of their own. Whether they were right or wrong in feeling that way, I believe they did feel that way.

That implied no criticism of the Legion or the Veterans of Foreign Wars but merely indicated the fact that a generation aside ought to have its own kind of association where it runs its own show.

I think there was a secondary and perhaps less well-formulated reason that prompted the formation of the American Veterans Committee, and that was a feeling on the part of many men that their responsibility to this Nation did not end when they took off their uniforms, and I think they were motivated by a very high sense of service to the country and they were determined that they would band together with men who were anxious to work as civilians for the ideals that have been at stake defensively in the war, when they got back.

They were, I think, interested in the problems of how we might prevent another war, for example.

We are not all agreed on how that might be done but that was the kind of thing that they were interested in, and they wanted to work together as veterans.

They had seen war abroad and wanted to do something to try to prevent this happening again.

That type of idealism, I think, also motivated a considerable part of the organization of AVC.

Senator DONNELL. Does not the American Legion have similar sentiments?

Mr. HARRISON. I am certain that it does, sir. I would be surprised if it did not.

Senator DONNELL. Following the question of Senator Ellender, why, then, was it thought necessary to have another organization rather than to cooperate in the carrying out of the aims of the American Legion?

Was it solely the fact that you wanted a separate organization of veterans of the most recent World War?

Mr. HARRISON. No. I think that also, sir, there was a feeling that if one had one's own organization, there would be no question of who would determine the policy.

Joining an organization that is as well established and as large as the American Legion means that you take your place among many others, and you adapt what you feel and what you think to the sentiments of the group already in the organization.

Again, I think that they wanted to give unique and personal direct expression to whatever they did believe by starting a new organization, in which they could set the policy, and know that that policy was their own policy.

Senator DONNELL. Do you know whether or not the American Legion admits Negroes into membership throughout the United States, or is that done by States?

Mr. HARRISON. I am afraid, sir, that you would have to ask a representative of the Legion that. I do not know their policy on that. I know the American Veterans Committee but I do not know the Legion.

Senator DONNELL. The American Veterans Committee constitution, which you handed me, begins with the preamble, the opening portion of which says:

We as veterans of the Second World War associate ourselves regardless of national origin, creed, or color for the following purposes.

Is that correct?

Mr. HARRISON. Yes, sir.

Senator DONNELL. Would you mind telling me the proportion of white and colored members?

Mr. HARRISON. There again I don't know, because we do not ask a man's race when he applies.

We have a man's application card. It has on it where he served, what part of the armed forces he was in. It does not ask him to designate his race, so I would have no way of knowing.

I have been to many AVC meetings. I have been to our national convention and many local, State, and area conventions, and I have seen Negroes there.

The proportion, I suppose, would give area by area. We have followed a policy which I understand is unique among veterans' organizations, in the South, although there again I am not an authority on the other organizations but I think our policy in the South is unique and it was dictated by our southern chapters.

We did not impose a policy on our southern chapters but we followed their leadership and their leadership has instructed us to hold rigidly to a policy of nondiscrimination in terms of those who are admitted to our organization. As a consequence, AVC in the South is operating on the basis of equal participation of veterans as veterans in the work of the American Veterans Committee.

Senator DONNELL. Does not your organization have the information showing what proportion of the membership are white and what are colored?

Mr. HARRISON. No, sir. We have no such information. My general guess would be that the Negro percentage in our organization was very small, I am sorry to say. That is only because of my observations, however.

Senator IVES. Mr. Chairman, I doubt if the American Legion or the Veterans of Foreign Wars have that information regarding their membership.

Senator DONNELL. I do not know.

Senator IVES. I do not believe so.

Senator DONNELL. Mr. Harrison, who is the national chairman, who, I understand, is the principal officer of the American Veterans Committee?

Mr. HARRISON. There are two nationally elected officers. Charles G. Bolte is the chairman, and I am the national vice chairman.

Senator DONNELL. Where does Mr. Bolte live?

Mr. HARRISON. Mr. Bolte lives in New York, and he was originally from Connecticut.

Senator DONNELL. And you are now in New York, although your home was on the west coast?

Mr. HARRISON. Yes, sir.

Senator DONNELL. Do you devote all your time to the work of the American Veterans Committee?

Mr. HARRISON. Yes, sir; I was elected to work at full time for a year at the last convention.

Senator DONNELL. Now, you two gentlemen are receiving salaries at the rate of \$8,000 and \$7,500, respectively; is that correct?

Mr. HARRISON. That is correct, sir.

Senator DONNELL. And each of you devotes all of his time to the work of the organization; is that correct?

Mr. HARRISON. Yes, sir.

Senator DONNELL. What proportion of the membership is in New York State, do you know?

Mr. HARRISON. Again, I have to make a general estimate, Senator. I would guess that the New York membership, since we began organizing first in New York, would comprise about one-sixth of the national membership.

The west coast, I think, would have generally the next largest percentage of the membership.

Senator DONNELL. What would be the west coast percentage, do you think?

Mr. HARRISON. There are approximately 10,000 members from California, for example.

Senator DONNELL. Yes.

Take the entire west coast. What would you think would be the membership?

Mr. HARRISON. I would say perhaps another one-sixth.

Senator DONNELL. So approximately a third of the membership, then, you think—

Mr. HARRISON. Are on the two coasts, New York and the west coast.

Senator DONNELL. There is about a third of the entire membership on the two coasts?

Mr. HARRISON. That is right.

Senator DONNELL. So that would leave about 60,000 members scattered over the remaining portion of the Nation?

Mr. HARRISON. That is right, sir.

Senator DONNELL. Do you know about what proportion are south of the Mason-Dixon line?

Mr. HARRISON. A general estimate is about 5,000 members. That may be too small, sir, but I do not want to overestimate it, Senator Donnell. That is my personal estimate.

Senator DONNELL. About 5,000; so there is only approximately 5 percent of your membership south of the Mason and Dixon line, according to your own personal judgment, at this time?

Mr. HARRISON. That is right.

Senator DONNELL. I will not pursue this unduly, but I am somewhat puzzled to know what is the reason for what I take it you concur is a widespread opinion that your organization is one which I roughly characterize, according to popular opinion, as a left-wing organization, whatever that may mean.

That is a vague term, I appreciate, but I take it you have concurred in the view that that is quite a scattered general opinion in regard to your organization.

Will you tell us your judgment as to why that opinion prevails?

Mr. HARRISON. I suppose, sir, because we have done some very radical things. For example, we have come out for the Wagner-Ellender-Taft bill.

Senator DONNELL. Yes; I know that.

Mr. HARRISON. And in so doing, we have incurred a certain amount of enmity, there is no doubt about that.

I would like you to realize, Senator, that one of the easiest ways to dispose of an argument these days is not to question the motives of the people that they advance but imply that they are Communists.

I know that that has not happened here but that has happened as to certain columnists.

As a matter of fact, the criticism has not been as widespread as you might think. We have been attacked by a Washington columnist, I am told. We have been attacked by Westbrook Pegler, and we have been attacked on the radio by Upton Close who retracted what he said in the next broadcast.

On the other hand, the editorial comment that has been favorable to AVC has been surprisingly widespread, everything from Life magazine to Harpers magazine, to newspaper editorials, in almost every section of the country. So I believe that the criticism is rather isolated in terms of at least the printed word.

Senator DONNELL. The opinion that prevailed as to your organization's being of a left-wing type existed prior to the testimony which your representative gave in favor of the Wagner-Murray-Dingell bill, did it not?

Mr. HARRISON. I believe it did. Mr. Pegler's first attacks were somewhere around a year ago; when I first got out of the Army; I remember reading that in his column.

Senator DONNELL. So this opinion to which I referred did exist before your organization had gone on record before the Senate committee in favor of the Wagner-Murray-Dingell bill; I am correct in that, am I not?

Mr. HARRISON. I believe so.

Senator IVES. Mr. Chairman, may I ask a question?

Senator DONNELL. Certainly.

Senator IVES. As a matter of fact, you have been plagued a little bit by Communist infiltration in your organization. That is one of the things that you can guard against, and you can do it, running an organization of your own.

The only thing is that you have to load yourselves up with membership of the other type so that you can outvote that kind of set-up.

Mr. HARRISON. We are well aware of that, Senator.

Senator IVES. I know some of your problems.

Mr. HARRISON. We have been fighting that problem for a long time, and I am glad to hear you say that the way to deal with it is to lick it.

Senator IVES. Certainly.

Mr. HARRISON. And it just means outorganizing, outthinking, and outrecruiting.

Senator IVES. And you fellows can do it.

Mr. HARRISON. We are doing it, sir.

Senator DONNELL. I recall vaguely, without accuracy, portions of an address made on the floor of the Senate, I think by Senator Taft, in which various activities of the American Veterans Committee were mentioned last year. You recall that address, do you, by him?

Mr. HARRISON. I do, sir; and I think that probably Mr. Taft had certain justification for the resentment which I imagine he felt at the time. The American Veterans Committee, I believe, in this instance, was again alone among veterans' organizations in advocating that price control be maintained until we had a more stable situation in our economy, and so our chapters around the country did everything they could to try to get price control maintained.

Senator DONNELL. My recollection, without undertaking to be accurate, because I do not recall this in detail, is that some very unique methods, to say the least, were employed by your committee through-

out the country in its opposition to their endeavor to abolish price control.

Mr. HARRISON. My impression is that the dramatic instinct and youthful enthusiasm of certain of our members in certain areas may perhaps have been excessive.

Senator DONNELL. Yes.

Senator Ives. You know what you are running through, what you are going through is the same type of experience—I do not say the same experience but a similar experience—to that which the American Legion had when it was first created, and that is one reason that I have always thought you fellows never should have an organization of your own but step in there where you can get control, because you will avoid all the pitfalls that the American Legion went through in its early days, and, believe me, there were plenty of them. I know because I was around at that time.

Senator DONNELL. What is your own personal background, Mr. Harrison? Your profession or business, and your education, and anything that you might think relevant here as to your own personal experience?

Mr. HARRISON. I graduated from the University of California at Los Angeles in 1937, sir.

Senator DONNELL. What department?

Mr. HARRISON. I majored in the field of psychology.

I spent most of my time, I must confess, however, in other activities, such as editing the University Daily and in being chairman of the student religious board.

After I graduated from the university, I went to work for an organization called the University Religious Converts, which is an organization set up by all the religious groups in southern California, officially, the Roman Catholic archdiocese, the Episcopal diocese, all of the major Protestant groups, and the Jewish community, to work in a field of better understanding.

Senator DONNELL. Did you ever come in contact with a gentleman, Mr. Bridges—this is not the gentleman you might think I mean. His brother is Senator Bridges, of New Hampshire. Did you ever come in contact with him in any of your religious work in California?

Mr. HARRISON. No, sir.

Senator DONNELL. He was the head of some religious organization. I wondered whether you were connected with him?

Mr. HARRISON. No, sir.

I worked in this field for 3 years, or 4 years, closer to 4 years, and then I went into the Army.

First I was in the RAF for 6 months. I then went into the United States Air Forces. I served in this country and in the Pacific.

I came back and immediately came to New York to assist in the work of the American Veterans' Committee with which I became very active.

Senator DONNELL. You have been how long on a salary?

Mr. HARRISON. I have been on a salary just since the last convention, when I was elected to office.

Senator DONNELL. But you have been quite active in it since your return?

Mr. HARRISON. Yes, sir.

Senator DONNELL. Now, just very briefly, what is the background of Mr. Bolte, if you know?

Mr. HARRISON. Mr. Bolte was a graduate of Dartmouth College, I believe, around 1939.

He felt quite strongly about the war and as evidence of his personal conviction that the Nazis ought to be stopped as soon as possible, he went off and enlisted before we got into the war in the British Army. He served in Africa where he lost his leg at El Alamein.

He came back and went to work for some publishing firm, and at one time he was doing military analysis for the Office of War Information.

He, at our request, we being in the service then, said that he would take over the shaping of an American Veterans' Committee until we got back and there could be a convention when all of the men who were interested and who had joined could sit down and determine its policies on a democratic basis.

Senator DONNELL. When was he chosen as the national chairman?

Mr. HARRISON. At the same convention at which I was chosen vice chairman, sir; last year, in October.

Senator DONNELL. Very well.

Proceed with your statement.

Mr. HARRISON. I want to say first of all, Mr. Chairman and Senator Ellender, that consideration by this committee of legislation designed to minimize discrimination in employment is heartening evidence to AVC that our national leaders are seeking for new ways of applying the principles of human dignity and equality of opportunity in behalf of which the past war was fought.

Within the ranks of AVC itself we have held firmly to a policy of nondiscrimination. All veterans of World War II, regardless of race or creed, are welcomed into full membership. Our members recall that the duty to defend America was recently shared by all able-bodied men and women. It seems to us now that the privileges of American life must likewise be shared by all.

One of these American privileges is the opportunity to work at whatever job one is qualified to fill without the fear of economic reprisal because of race. At present that privilege is not enjoyed by millions of our fellow citizens, many of them veterans. The earning capacity and chance for economic advancement of many Americans are limited by reason of race or religion. One consequence of such discrimination is an increasing bitterness and a growing doubt in the minds of those discriminated against as to the merits of the democracy so recently defended at such great cost.

Many qualified Negro veterans, as well as veterans of Mexican, Filipino, or Japanese-Americans, today face the discouraging truth that their training cannot be profitably utilized because of discriminatory employment practices. These veterans may be skilled workers, doctors, lawyers, or teachers; they may live in communities which have great need of their talents, but their contributions to the community are restricted by the scarcity of employers willing to use their services. There is not much inducement for higher education if members of minority races anxious for education are denied the opportunity to put their knowledge into practice when their schooling has ended.

According to a pamphlet published by Public Affairs about 2 months ago, for the first half of 1946 unemployment ran 11 percent higher among Negro servicemen, or rather Negro veterans, than it did among white veterans.

It was also true that the 52-20 unemployment cushion is rapidly disappearing. If the present trend toward increasing unemployment continues as some predict it will, it seems to us that it will be all the more important to give some kind of Federal assurance that men will not go without work merely because they happen to have been born into a certain race or religious group.

At its last national convention AVC recommended the establishment of a permanent Federal fair practices law. In so doing we recognized that prejudice will not disappear with the passing of a law. But the passage of laws does not preclude voluntary cooperation by employers and trade-unions, such as I understand they have in Chicago at the present time, for the purpose of finding the means by which members of minority groups can be trained and hired for new types of work.

We are suggesting that the passage of such Federal legislation guaranteeing equal opportunity is an affirmation of our American view that a man's economic usefulness depends primarily on his ability and his willingness to work, rather than upon his race or religion.

We therefore welcome the proposed enactment of the Ives law against discrimination in employment as an effective method to achieve sound and necessary ends.

Senator DONNELL. May I interrupt you, Mr. Harrison, please?

Mr. HARRISON. Yes, sir.

Senator DONNELL. Has your organization passed any resolution respecting S. 984, or are you giving, in the full belief that you represent the view of your organization, merely a statement which is based on that belief, rather than upon an expression by the organization?

Mr. HARRISON. I am doing this, sir, on the basis of a statement which appears in the platform endorsed by the delegates at the last congress, which has seemed to us to clearly imply endorsement of the general provisions of the Ives bill.

Senator DONNELL. Do you have that statement with you?

Mr. HARRISON. I do, sir. That is in the platform under section 10. I can leave that with the committee.

Senator DONNELL. Section 10.

I think it would be well to have this in the record, if you do not mind. (The statement referred to is as follows:)

DISCRIMINATION AND CIVIL LIBERTIES

1. We oppose Jim Crow laws, anti-Nisei restrictions, and all other forms of racial discrimination by all individuals by private businesses, by labor unions, Government, and other associations. We forbid it in our own ranks and we shall fight it in law and in practice wherever it is found.

2. We strongly and actively oppose any laws, practices, customs, or usages whereby any person or group by virtue of discrimination due to race, religion, color, or sex attempts to prevent another from obtaining employment, being paid at a fair rate for the services performed, living in any area, obtaining a free and sound education, practicing any creed, or voting or enjoying any right of citizenship.

3. We urge laws to make such discrimination illegal and punishable, and to give members of minorities the right to sue for libel or slander against the whole majority group.

4. We strongly urge support of all movements for a permanent Federal fair employment practices law.

Now, it is those four provisions, Mr. Harrison, that in your judgment justify you in giving a statement here this morning?

Mr. HARRISON. That is correct, sir.

Senator DONNELL. And there has been no action taken by the American Veterans Committee specifically with respect to the bill now before us, S. 984?

Mr. HARRISON. No, sir.

Senator DONNELL. Now, this platform was passed by the first constitutional convention of the American Veterans Committee, which was the convention at which the constitution was also adopted?

Mr. HARRISON. That is correct, sir.

Senator DONNELL. So the platform probably gives something more of the actual sentiments than the constitution, which latter document, I take it, is largely along the mechanical portions of the organization; is that correct?

Mr. HARRISON. That is correct, sir.

You have there, sir, only one-third of the platform, namely, that concerning domestic affairs. There was an international affairs section, and one specifically on veterans' affairs. I can file that with the committee.

(The document referred to was filed with the committee.)

Senator DONNELL. Will you file a copy of each of those other two-thirds with the committee?

And I understand, with your consent, that this document containing the first third, namely, that relating to domestic affairs, is now being filed with the committee; is that correct?

Mr. HARRISON. Yes, sir.

Senator DONNELL. Proceed, Mr. Harrison.

Mr. HARRISON. We welcome the tone of the legislation—which places responsibility for fair employment equally upon employers and trade unions, which makes mandatory a process of conference and conciliation with persons against whom charges are filed, and which resorts only in the end to court enforcement against those persons who refuse to comply with the law.

We do not mean by this that we do not believe strong measures should be taken to combat discrimination in employment. On the contrary, it is the strength of the enforcement provisions of the Ives bill which makes it possible for the Commission to seek first to reason with violators of the law. In those instances where an employer or a labor union refuses to comply with the law after conferences with the Commission, courts should act quickly under the law to enforce the orders of the Commission, and the Ives bill is drawn with such care in the administrative process that court enforcement is assured.

The experience of the several States which have enacted such legislation shows that the bitterness of its opponents is unjustified. Legislation carefully drafted providing all the protections for individuals which Congress has seen fit to require of administrative agencies generally and many more besides cannot be viewed as an unwarranted invasion of the rights of either employers or labor unions.

We must recognize that everyone in America has a responsibility today to contribute toward maximum production in order that the United States may remain the greatest world power. Only by the fullest utilization of the skills of all our people can this be accomplished, and well-considered legislation to achieve that end is essential.

Thank you, sir.

Senator DONNELL. Are there any questions, Senator Ellender?

Senator ELLENDER. No.

Senator DONNELL. I think there are no further questions, Mr. Harrison.

We are much obliged to you and Mr. Paterson, both, for your presence here.

Mr. HARRISON. Thank you very much for the chance to speak.

Now, Mr. Roy Wilkins, assistant national executive secretary for the National Association for the Advancement of Colored People. Mr. Wilkins, will you please state your name?

Mr. WILKINS. Yes, sir.

STATEMENT OF ROY WILKINS, ASSISTANT NATIONAL EXECUTIVE SECRETARY, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

Mr. WILKINS. Mr. Chairman, my name is Roy Wilkins, and I am reading the statement prepared by Walter White, our executive secretary.

Senator DONNELL. Are you personally familiar with the contents of the statement?

Mr. WILKINS. I am, sir.

Senator DONNELL. And are you here subject to examination likewise, or do you want to merely present the statement without examination of yourself individually?

Mr. WILKINS. I will undertake to answer some questions, Senator, although I am just generally familiar with it. I did not assist in the preparation of it.

Senator DONNELL. I see. Now, may I ask you a few questions in regard to your organization?

Now, the National Association for the Advancement of Colored People—that is a Nation-wide organization, is it not?

Mr. WILKINS. That is right, sir.

Senator DONNELL. Approximately how many members does it have?

Mr. WILKINS. About 550,000.

Senator DONNELL. Is its membership entirely colored, or are there certain white members?

Mr. WILKINS. It is interracial, and has both white and colored members.

Senator DONNELL. Do you know the proportions approximately?

Mr. WILKINS. No; we do not. We do not ask the color of the applicant. Anybody who wants can become a member who believes in the association.

We estimate roughly, and it is merely the merest approximation, that about 15—10 to 16 percent of the membership is white.

Senator DONNELL. Does your organization hold conventions from time to time?

Mr. WILKINS. Annually.

Senator DONNELL. When was your most recent convention held?

Mr. WILKINS. In June of 1946 in Cincinnati; and one is about to be held in Washington in 2 weeks.

Senator DONNELL. And at your convention held in Cincinnati in June 1946, did your organization express itself with respect to the

general subject matter of discrimination in employment matters, on the ground of race, national origin, or religion?

Mr. WILKINS. It did by resolution.

Senator DONNELL. Are you filing with us a copy of the most recent resolution?

Mr. WILKINS. I am sorry, sir. I will not be able to do it today but it will be sent for the record.

Senator DONNELL. You will send that to Mr. Rodgers, the clerk of the committee, Mr. Wilkins?

Mr. WILKINS. Yes, sir.

(Subsequently Mr. Wilkins submitted the following resolution:)

The NAACP renews its support and demand for Federal fair employment practice legislation with adequate powers. The national office and the branches will work to this end and also for the elimination of discrimination in employment, upgrading, and training everywhere. Moreover, we urge the enactment in the several States of legislation similar to that passed by New York, Massachusetts, and New Jersey.

The full strength of the national association will be mobilized in those States where fair employment practice legislation is pending to support the fight for passage of the legislation.

We urge that the NAACP set up machinery for the elimination of discrimination in employment through operations, education, and legislative activity.

Senator DONNELL. What is your own personal background and experience, Mr. Wilkins?

Mr. WILKINS. With respect to what?

Senator DONNELL. What is your education, first?

Mr. WILKINS. I am a graduate of the University of Minnesota.

Senator DONNELL. What year did you finish there, and what degree did you take?

Mr. WILKINS. I took a degree in 1923.

Senator DONNELL. What is the degree?

Mr. WILKINS. Bachelor of arts.

Senator DONNELL. And then what did you do thereafter?

Mr. WILKINS. I went back to Missouri, where I was born.

Senator DONNELL. Yes, sir.

Mr. WILKINS. I worked on a newspaper in Kansas City, Mo., for 8 years.

Senator DONNELL. Is that the Call?

Mr. WILKINS. That is the Call.

Senator DONNELL. And Mr. Franklin was the head of that at that time?

Mr. WILKINS. Mr. Franklin was the owner and still is.

Senator DONNELL. You worked for it for 8 years?

Mr. WILKINS. For 8 years. I was the managing editor.

Senator DONNELL. I see.

And from there, where did you go?

Mr. WILKINS. From there I came to the National Association for the Advancement of Colored People in 1931, in its New York office.

Senator DONNELL. And you have been there ever since?

Mr. WILKINS. Ever since.

Senator DONNELL. And you are now on salary by that organization and you are appearing for Mr. White as you have indicated?

Mr. WILKINS. That is right.

Senator DONNELL. Now, what is the background, if you know, of Mr. White?

Mr. WILKINS. Mr. White is a native of Atlanta, Ga.

Senator DONNELL. And what is his background?

Mr. WILKINS. He was educated in the schools of Georgia and is a graduate of Atlanta University, and attended Columbia (New York) University for advanced courses.

Senator DONNELL. Did he take degrees in either or both of those institutions?

Mr. WILKINS. Not the latter of the two, that I know of. He is a recipient of a number of honorary degrees, doctor of literature, and so on.

Senator DONNELL. What does he consider his profession to be?

Mr. WILKINS. What does Mr. White consider his profession to be?

Senator DONNELL. Yes; his vocation, as distinguished from his connection with the National Association for the Advancement of Colored People?

Mr. WILKINS. He is the chief paid official.

Senator DONNELL. He is now; but was he not active in some other line of activity before he became active with that?

Mr. WILKINS. He has been with the National Association for the Advancement of Colored People since 1918.

Senator DONNELL. He has?

Mr. WILKINS. Prior to that time, I understand, as a very young man, he was employed in an insurance company.

I am recalling from his various biographical material.

Senator DONNELL. And he has been connected, then, as a paid member and now is executive secretary for the National Association for the Advancement of Colored People continuously since 1918?

Mr. WILKINS. That is my understanding.

Senator DONNELL. Very well.

Proceed, Mr. Wilkins.

Mr. WILKINS. The NAACP, Mr. Chairman, is the oldest and largest civil-rights organization in the United States, with 1,500 branches and an interracial membership of 550,000.

Its board of directors, which implements the program and policy of the association between annual conferences, is composed of some of America's most distinguished and loyal citizens. The board includes such persons as United States Senator Arthur Capper; former Governor of New York and former director of UNRRA Herbert H. Lehman; Gov. William H. Hastic, of the Virgin Islands; Eric Johnston; Mrs. Eleanor Roosevelt; Justice Jane Bolin and Hubert T. Delaney; Dr. Louis T. Wright; Arthur B. Spingarn; Judge Charles E. Toney; and F. H. LaGuardia. Since its organization in 1909 the NAACP has labored assiduously to assure to all Americans regardless of race or color the guaranties of the Constitution and laws of our Nation and of the several States.

Because voluminous testimony will be placed before your committee concerning the denial, even during the trying days of war, of the right to work to minorities because of race, creed, color, or national origin, I shall not duplicate that material. I shall instead confine myself to two points which ought to rally behind S. 984 the vigorous support of every taxpayer and every manufacturer of the United States. That support should be given, if taxpayers and producers are even reasonably intelligent, because one of the surest guaranties

of continuation of what is called the free-enterprise system and democracy is a market able to purchase goods.

A second must for a sound economy is keeping to the irreducible minimum the cost to taxpayers of the expensive and dangerous fruits of poverty and discrimination—hospitals, courts, jails, shelters for delinquents, weakened citizens who are a burden upon society in peacetime and even more in times of war.

Even more costly to a democratic society is a large segment of its population who are bitter because their color or religion or place of birth prevent them from using their skills or training or ambition to live the kind of decent life they see others enjoying.

I wish first to point out why businessmen should support this bill. As illustration, permit me to direct your attention to the little-noticed Negro consumer market in the United States.

A conservative estimate of the size of that market is \$12,000,000,000 annually. This is larger than our present market for American goods in Canada and is between one-fourth and one-fifth of our entire national income in 1935.

The FEPC, created by Presidential Executive order in 1941, is directly responsible, to an appreciable extent, for this phenomenal fact. Race prejudice and, even more, ignorance on the part of many employers and some labor unions barred Negroes, whatever their skills, from war plants even when acute manpower shortages during the late war jeopardized the winning of the war.

Miserably understaffed, inadequately financed, and badgered by relentless opposition by certain members of Congress and unenlightened employers, the wartime FEPC by direct action and moral suasion broke down resistance to the use of Negroes in war and other plants. For the first time Negro Americans were able to use skills they already possessed or which they acquired in training schools.

With jobs and decent wages they were able, many of them for the first time, to buy war bonds, homes, household furnishings, clothing, education for their children, medical and dental care, and more adequate food.

Mortality and morbidity rates dropped. Morale rose.

Where during the depression of the thirties many Negroes, in despair of their over participating in the democracy they heard so much about but seldom experienced, listened with increasing interest to those who advocated a different form of government from ours, they lost interest in such doctrines when they found reason to believe that at last they would be permitted to share the fruits as well as the burdens of democracy.

Failure of the Congress to enact legislation against employment discrimination will place directly upon the Congress responsibility for re-creation of such dangerous despair. The revival of lynching and other forms of mob violence and the recent acquittals of self-confessed lynchers are doing that now. If a depression comes, however mild, the Negro, being too often the last hired and first fired, will again be condemned by the Congress itself to the blandishments of those who would trade upon his miseries. Do you gentlemen care to be responsible for that?

But passage and enforcement of this national act against discrimination, along with antilynching, antidisfranchisement, and civil-

rights legislation, will cause hope and faith to soar among those many millions of Americans who today are denied even the minimum basic right to work for no reason save that they happened to be born with dark skins or worship God in the manner of their parents' or their own choice. To reduce the argument to one of enlightened self-interest, such legislation would cause the continued growth of such consumer-goods market as that of America's 14,000,000 Negro citizens.

The entire economy of our Nation is in part dependent on that market now that war's devastation has wiped out for many years to come the foreign markets upon which American industry so largely depends. Will the Congress and the manufacturers of the United States be wise enough to understand this and to act accordingly?

Permit me to point out the second reason why it is economically imperative to enact S. 984 now. We were all appalled by the revelation of the extent of disease among inductees during the recent war. We shudder at the fate which may befall us should another war come and find us without an alert, healthy, contented population. Because high taxes are a more immediate problem, we shudder almost as much, if not more, at the cost of penal and other institutions for which taxpayers must pay to correct the disastrous consequences of poverty, ignorance, and discrimination. A national act against discrimination in employment will not, of course, bring utopia overnight. But it can do much toward stopping discrimination for whatever jobs are available. The security thus afforded will have direct effect in reducing the tremendous annual bill for health, penal, and similar institutions and services.

Which is wiser, to continue to spend billions each year to heal minds and bodies broken by poverty and discrimination or to spend a lesser amount at the source to prevent men, women, and children becoming ill or criminal because they are denied the right to live as normal human beings? To ask the question is to answer it.

In conclusion, permit me to say that it is my belief that this bill, when enacted into law, will seldom be used because the affirmation by the Congress of a moral principle through such enactment will create a climate of economic decency which will make unnecessary the use of the mild penalties provided in the measure.

I urge, therefore, that S. 984 be enacted with the utmost possible speed to assure all Americans that democracy is not a hollow pretension and to demonstrate to the rest of the world that the Congress can act as well as talk when it extols democracy as the form of government superior to all others.

Senator DONNELL. Mr. Wilkins, you have personally studied the bill, have you, S. 984?

Mr. WILKINS. Yes; I have read it, Senator Donnell; but I am not a lawyer and I am not a drafter of legislation, and those technicalities are in the hands of our legal staff.

Senator DONNELL. I notice Mr. White uses the term near the conclusion of the statement, "the mild penalties provided in the measure."

I am wondering if you gentlemen have given consideration to whether or not contempt proceedings are permissible under the terms of S. 984, in the event of violation by an employer of the order or decree made by a court in support of an order issued by the Commission?

Mr. WILKINS. Yes; we have given attention to that. We have considered it.

This is Mr. White's draft, and he picked this particular word "mild." A contempt citation, perhaps, would not be regarded as mild by some persons.

Senator DONNELL. You realize that a contempt proceeding, I take it, can involve both fine and imprisonment.

You would agree to that generally, even though you are not a lawyer?

Mr. WILKINS. Yes, sir.

Senator DONNELL. Are there any further questions?

Senator ELLENDER. You say you are at the head of the New York branch?

Mr. WILKINS. Not the New York branch, Senator, the national administrative office, which happens to be located in New York. That is the national headquarters.

Senator ELLENDER. Have you branches throughout the State of New York?

Mr. WILKINS. Yes; we have branches throughout the State of New York.

Senator ELLENDER. Has the association interested itself in the FEPC law in New York?

Mr. WILKINS. Along with Rabbi Wise and other organizations, we were one of the organizations that testified for that bill and supported it.

Senator ELLENDER. What I had in mind was, in its administration, had you participated in it so as to give us an idea as to how it would work?

Mr. WILKINS. Of course, as a private organization, we do not participate in the administration of the bill, which is done by the commission created under the law, but we have knowledge of the operation of the law.

We have participated in some of the public sessions called under the bill by the councils that are set up to educate the public, and so forth, on the meaning of the law, and we do have reports from our 27 local chapters in the State of New York to the effect that the bill is certainly working an improvement in a situation which existed prior to the enactment of the law.

One of the most striking things reported to us has been, shall I say, the conversion by persuasion and by conference of skeptical employers who felt that the law would not work, after it was enacted, and this was a bad piece of business but who have since found and come to believe that it is a good thing.

Senator ELLENDER. Have you much unemployment, to your knowledge, in New York?

Mr. WILKINS. Oh, yes, there is unemployment in New York. I just recall a newspaper figure here, some time ago, something like 300,000 or 400,000 people.

Senator ELLENDER. I noticed in the paper 2 days ago, wherein the employment is now at its peak; 58,000,000 plus.

Of the unemployed in New York, are there many colored?

Mr. WILKINS. I assume, Senator—I do not have any exact figures—they could be secured from State employment surveys and from the

National Urban League, which I understand will testify here later on, and which is more intimately concerned with this type of statistics than we are—but of course there is Negro unemployment. If there is any unemployment at all, and Negroes live in the area, they are always among the unemployed, and the chances are they are a substantial portion of the unemployed.

Senator ELLENDER. And that is in spite of the operation of the FEPC bill in New York State?

Mr. WILKINS. You will permit me to answer it this way: The Ives-Quinn bill, in New York State, as I understand it, and S. 984, now before this committee, are not primarily designed to cancel out the possibility of unemployment.

I don't think anyone seriously maintains that.

Senator ELLENDER. But you made the point that a great number of unemployed are colored, and I assume from that, that this is more or less a natural consequence. That is why I asked you the question.

Mr. WILKINS. May I explain that; Senator?

Senator ELLENDER. Yes.

Mr. WILKINS. The fact that probably there is a greater proportion of Negroes unemployed does not necessarily mean that the Ives-Quinn law, or the Jones law, or any other law, is affected. It simply means that a great many factors contribute to unemployment, a number of them which are not racial in any respect.

Senator ELLENDER. Skill, and lack of it?

Senator IVES. Seniority, too, does it not?

Mr. WILKINS. In the case of Negroes, it is seniority. But if a manufacturer cannot get materials, he shuts down. It does not matter whether he employs Czechoslovakians, Negroes, or white people or whom he employs; you have unemployment.

But it does not mean necessarily that a law designed primarily to correct discrimination—now, this law will not create jobs for Negroes specifically. It is only designed to see that there is no discrimination in the allocation of such employment as is available, as I understand it.

Senator IVES. That is right.

Senator ELLENDER. That may be true but it is prompted, though, more or less by the agitation from the colored race.

Would you agree to that?

Mr. WILKINS. I think that is true, and I think it is perfectly understandable and justifiable.

Senator ELLENDER. I am not questioning that.

Mr. WILKINS. What I mean to say is, if a man finds himself a victim of a circumstance, if it is lack of water, he tries to dig a well, and he tries to find some water.

Senator IVES. I do not think that is quite correct in New York State, do you?

Mr. WILKINS. The Senator was confining himself to New York, were you not?

Senator ELLENDER. I made the distinction yesterday, or tried to, that New York—because of the fact that it is the melting pot of all races, and all people who come to this country, and that is why I made the point yesterday that it may be—that New York State in itself is more in need of a bill of this character, rather than to make it apply nationally.

Senator IVES. On the contrary, I am inclined to think that New York has made far greater advances than any other State in this field, prior to the enactment of this bill.

Mr. WILKINS. Were you asking me that?

Senator IVES. I am just answering that now. That is my own observation. I come from New York, too.

Mr. WILKINS. Yes, we know you do, Senator, and we are very glad you are here from New York.

If I may just state, as the Senator did, my own impression, it is that this Ives-Quinn measure in New York State fits into the pattern of advanced social legislation with the stages noted for them. It may be as the Senator from Louisiana says, that the peculiar composition of the population of the State of New York even necessitates certain legislation, but we from New York prefer to say that we feel that we have the enlightenment and social consciousness which produces this type of social legislation. We feel that it is good for our State.

Senator ELLENDER. I suppose that in New York there is a section, in Harlem, wherein the population of colored people is thicker than in any section in the country?

Mr. WILKINS. That is so.

Senator ELLENDER. Likewise, I presume that there are more Jewish people in New York than in any other section of the country; also the foreign element.

When one goes abroad and talks to an European, all he knows about America is New York; he does not know anything about Missouri.

Mr. WILKINS. I have never been fortunate enough to get abroad, sir.

Senator ELLENDER. He does not know anything about Louisiana. New York is what he knows, and it is so impressed on him that that is where he heads for and stays.

Senator IVES. We haven't anything against that.

Senator ELLENDER. I know that, but it seems to me that as a fact—that your having such an element coming in from various portions of the world creates these conditions whereby you have to resort to law in order to attain certain goals of relief.

Senator IVES. Mr. Chairman, may I comment on that, coming from New York, as long as New York seems to be under discussion at the moment?

I think that New York has made great advancement, and has over the years, going 'way back, in these various areas. Perhaps this fact, that we do have in New York State and New York City—but it is not all confined to New York City—various representative groups from around the world has expedited this advancement, but I think it is just inherent in New York, and I think that it is historic. I think we have as a State pioneered in these things, and perhaps, because of conditions that have been cited by the Senator from Louisiana, our progress has been expedited.

Perhaps that does contribute to the results, but I do not think that is the sole reason by a great deal.

Senator ELLENDER. I am not trying to find fault with the great State of New York, but it has had more occasion for such laws than any other State in the Union, I presume, and that is because of its mixed native population and the various types of foreigners coming there and settling in New York.

Senator IVES. We are all foreigners, Senator.

Senator ELLENDER. I grant that.

Senator IVES. I am myself, and I am the tenth generation of my family here; but we all came from the other side originally.

Senator ELLENDER. When I say foreigners, I mean most of those who come in and have not yet acquired citizenship.

Senator IVES. That is right.

Senator ELLENDER. And you know as well as I do that New York has been referred to as the melting pot of the Nation.

That is all I have to say, Mr. Chairman.

Senator DONNELL. Is there anything further, gentlemen?

Senator IVES. No, sir.

Senator ELLENDER. That is all.

Senator DONNELL. Thank you very much, Mr. Wilkins.

Mr. WILKINS. Thank you.

Senator DONNELL. We appreciate your statement.

Let the record show that in connection with the testimony of Mr. Gilbert Harrison, vice president of the American Veterans Committee, a copy of that portion of the platform of June 15, 1946, which is set forth in the document filed by him, namely, the speech of Senator Murray, on July 3, 1946, the constitution of the organization, is filed; but unless there is objection from some member of the committee, I shall ask that that portion of the platform embraced by Senator Murray be incorporated in the record.

Mr. Masaoka, will you state, please, your name, your address, your nationality, and your educational background?

(The reprint referred to follows:)

AMERICAN POLICY PLATFORM OF AMERICAN VETERANS COMMITTEE

(Speech of Hon. James E. Murray, of Montana, in the Senate of the United States, July 3, 1946)

Mr. MURRAY. Mr. President, I ask unanimous consent to have printed in the Record the domestic policy platform adopted by the American Veterans Committee, AVC, at Des Moines, Iowa, June 14 to 16.

This platform was drafted by veterans of this war who are keenly interested in the destiny of America. I believe that the platform is a remarkable achievement. It should be studied carefully by Members of Congress as an important indication of the type of national program which young America wants.

The platform was adopted at the first national convention of AVC under circumstances which were variously described as "democracy in action" and "an inspiring miracle." The delegates were deadly serious. They had no time for capering. They were urgently interested in adopting policy platforms which would express their feeling that a program of progressive legislative action is necessary to save America from another boom-and-bust cycle.

AVC stands for a liberal program. Their progressivism follows along the line of the great precedent set by the late President Franklin D. Roosevelt. They want action. They feel that the fate of their own generation, as well as that of their children, hangs in the balance. They are anxious that we hear their pleas for democratic action on the problems facing us all.

They have attacked specific problems with courage and foresight. To mention but a few of the stands they have taken on matters of immediate interest, they want a realistic housing program, a strong democratic labor movement, the development of our river valleys, a vital price-control program, an honest opposition to discrimination, aid to small business, a Federal health program, and a tax program based upon ability to pay.

I personally am deeply moved by this platform because it includes many of the major legislative goals for which I have worked during my many years in Congress. I want to commend the members of the American Veterans Commit-

tee (AVC) for their unselfish interest in the welfare of all America and wish them success in creating a reawakened and revitalized public opinion among the veterans of this war.

There being no objection, the platform was ordered to be printed in the Record, as follows:

PLATFORM PASSED BY FIRST CONSTITUTIONAL CONVENTION, AMERICAN VETERANS COMMITTEE, INC., DES MOINES, IOWA, JUNE 15, 1946

Domestic affairs

As citizens and veterans our greatest stake is in a democratic and prosperous America and a stable world. As all men, our primary needs are peace, jobs, and freedom. We have learned at high cost that the "four freedoms" are inseparable; that without freedom from want and freedom from fear we cannot enjoy nor truly know freedom of religion and freedom of speech. We have learned that without security there is only the freedom to suffer or perish. Accordingly we turn our attention to those domestic, economic, political, and social problems which must be solved as a part of the task of winning the peace. We are confident that with our abundant resources, our manpower and skill, and our basically sound democratic system we can solve these problems. This is our program for action.

I. Housing

1. We demand that the wartime governmental controls—priorities, subsidies, price controls—now again be utilized to give us homes in which to live. Particularly, we demand that building materials be channeled into low-cost residential construction.

2. Where private builders are unable or unwilling to build low-cost homes, government must build them. Until the emergency has been dealt with, unessential and deferrable construction, like racetracks and office buildings, should be denied building permits.

3. We demand that the powers granted the National Housing Expediter be exercised immediately to carry out the enacted legislative housing program so that at least 50 percent of the 2,700,000 housing units be permanent low-cost rental units. We urge that representatives of World War II veterans' groups active in housing be put on mayors' and OPA housing committees; and that unoccupied usable housing be made available to veterans who now have no homes.

4. Finally, we urge immediate enactment of the present provisions of the long-term Wagner-Ellender-Taft bill.

II. Labor

1. We favor all measures by business, employees' organizations, and Government necessary to insure full and fair employment.

2. We urge amendments to the Federal Fair Labor Standards Act to provide a minimum wage of 75 cents an hour and of State laws to provide an equivalent minimum wage for employees not subject to Federal legislation.

3. We favor the principle of a guaranteed annual wage and immediate steps to bring it about as soon as practicable.

4. We favor the continuation of the maximum workweek of 40 hours for all workers with time and a half for all hours over 40 and double time for the seventh day.

5. We recommend a permanent Federal Employment Service.

6. We urge uniform Federal unemployment compensation at a minimum rate of \$25 for 26 weeks for unemployment of all kinds, including time lost due to labor disputes, and extension of social-security provisions to cover all persons.

7. We urge continuance and improvement of our safeguards against child labor.

8. A strong democratic labor-union movement is one of the most effective forces for political and economic democracy in the United States. We therefore support the right of all organized labor to unionize any or all workers anywhere in the United States. We recommend to union leadership recognition of its responsibility not alone to union membership but to the entire public as well. We recommend that such leadership exercise its responsibility by promoting efficiency and an ever-increasing production of goods to provide an adequate standard of living for all.

9. We favor broadening and strengthening collective bargaining. We oppose any form of compulsory arbitration, the use of armed forces in labor disputes,

and any procedures crippling the laws protecting labor against injunctions. Labor's right to strike must be maintained.

III. Agriculture and natural resources

1. The welfare of the agricultural population depends primarily upon full employment and a rising level of consumption for all elements of the population. In this respect the basic problems confronting agriculture are identical to those of labor, and we call upon both groups to support each other fully for their mutual benefit. American democracy is deeply rooted in the historic family-type farm unit as contrasted to the growing corporate type of land ownership and farm operation. We favor the improvement and stabilization of tenure arrangements giving special emphasis to programs designed to encourage owner operation of family-type farm units.

2. To promote these ends we urge that appraisal of land values for tax purposes and for mortgage loans to be commensurate with expected incomes, that utmost support be given to cooperative marketing, purchasing, and service facilities, soil- and water-conservation programs, land-use planning, reforestation, rural electrification, farm housing, and health and education.

3. We favor a full production policy for agriculture within the limits of good soil use. In consideration of farmers' full production programs, we favor direct income payments to agriculture when necessary in preference to support of market prices which injure the consumer.

4. Where necessary to enable farmers to get needed machinery and repairs immediately in order to produce critically needed food requirements, we urge Government seizure and operation of closed farm-equipment factories.

5. As veterans, we recognize that the greatest strength of our Nation is in its peoples, its resources, its rivers, its lands, and what lies beneath the land. Therefore, we will support the creation of valley authorities modeled on the TVA in such areas as the Missouri, the Arkansas, the Columbia River, and Central Valley (Calif.) watersheds, and the creation of a Great Lakes-St. Lawrence sea-way and correlated power developments, in this way opening up new frontiers of science, agriculture, and industry.

IV. Price and rent control

1. Legislative or Executive action weakening the price and rent line now being defended must be condemned. We favor a strong policy of price and rent control with adequate appropriations for its enforcement and the release of any commodity from control only when its supply and that of related commodities is sufficient so that the price will not rise measurably when control is lifted.

2. The practice of using wage or other cost increases as a basis for price increases where added costs may be absorbed within established industry profit standards as now defined and economies of mass production are unjustified.

3. We urge that the price- and rent-control lines be further safeguarded by the establishment of commercial rent ceilings. We favor the extension of priority and allocation regulations to force production of low-cost items.

4. We urge that the United States return to a system of rationing of essential commodities such as food, clothing, and building materials where necessary to fulfill commitments to starving nations of the world and provide essential commodities for all citizens and veterans of the United States.

5. We recognize that no issue is more important to veterans and the American people than effective price and rent control. Therefore, we condemn the action of the Senate and the House of Representatives in emasculating the OPA. The proposed legislation strikes a crucial blow against our entire stabilization program. It will lead to ruinous inflation, followed by a period of unemployment, bankruptcy, and hardship at home and abroad. It represents a direct denial, in face of overwhelming evidence, of our objective to achieve and maintain full employment. We urge President Truman to veto the bills offered by either House of Congress.

6. We demand the exposure by vigorous public campaign of each Senator and Congressman who voted to destroy price control by crippling amendments.

7. We instruct our national leadership to consult immediately with all national organizations for the purpose of taking militant steps on a Nation-wide coordinated scale to rescue OPA from inflationary forces. Such steps to include:

- (1) Simultaneous Nation-wide demonstrations;
- (2) buyers' strikes;
- (3) veteran, consumer, business, and labor delegations to Congress;
- (4) any other measures that are necessary to convince an indifferent Congress that the people insist upon having a strong, adequately financed and staffed OPA.

V. Industry

1. Business management not only has a responsibility to the owners of business but it also has a social responsibility to labor and the public. It must constantly attempt to provide full and increasing production, full employment, and greater business efficiency. When business management falls down on this social responsibility, proposals and action are bound to ensure which it then claims are incidental to business.

2. We believe that American democracy requires efficient and prosperous small business. We therefore recommend a liberal credit system for small businessmen, legislation to provide them with adequate market research and scientific and technological service, and the granting to them of preference over big business in obtaining surplus war materials and surplus plant facilities.

3. We consider the antitrust laws to be basic American policy. We therefore oppose the removal of any industry from the operations of these laws and urge their effective enforcement. In those industries where the enforcement of the antitrust laws do not insure adequate competition and where artificially high prices may be maintained, production limited, and opportunities for employment destroyed we favor effective Government control or ownership.

4. We oppose restrictive legislation on legitimate cooperative societies.

5. We urge the elimination of regional discrimination in freight-rate differentials.

6. We recommend the retention or reestablishment of production controls until normal demand and supply relationships exist.

VI. Health

1. The health of every citizen is the concern of the Nation. We therefore favor a comprehensive national health program to include hospital planning and construction, Federal aid for the establishment of community-wide health service, compulsory health insurance to provide adequate personal medical care for all citizens, extension of social security protection as it relates to health, particularly disability compensation, and establishment of an adequate mental health program.

2. Industrial accidents and occupational diseases represent continuous national peril and a drain on manpower. Accordingly, we urge adequate legislation, particularly in the several States, adequate research and the appropriation of enough funds by the responsible governmental authorities to obtain sufficient inspections and to promote accident-prevention campaigns to reduce such casualties.

VII. Education

1. The present educational system presents serious inadequacies, particularly regarding discrimination, equal opportunity, and adequate compensation for teachers.

2. We demand national legislation to bring about improved educational facilities with equal opportunity and facilities for all. We favor Federal aid for the public-school systems of the country on a per capita and not on a State matching basis, with safeguards to prevent Federal control of what is taught.

3. Any discrimination in school-entrance requirements due to race, creed, color, or national origin must be eliminated. We favor the repeal of tax exemptions to schools engaging in such discrimination; and we are opposed to segregation in schools.

4. We favor the establishment of free college and professional schools, admission to which shall be based on merit only.

5. To enlarge the educational opportunities of veterans we favor the payment of tuition for them to public schools of all levels in which they may enroll, and the use of such payments to supplement, not substitute for regular State or local school appropriations.

6. We demand that the teachers of our Nation receive salaries commensurate with their position as leaders in the community.

7. We favor raising to Cabinet level the Federal Security Administration.

8. We favor the establishment of entrance requirements to the military academies on the basis of free competitive examinations, and without congressional appointment.

VIII. Science

1. We urge the establishment of a national science foundation to promote, encourage, and coordinate research and education in all natural, social, and medical sciences, and we recommend that the results of such research be made freely available for public use.

IX. Congressional reform

1. We urge a complete overhauling and streamlining of congressional procedures.
2. We oppose the seniority system in congressional committees.
3. We favor the right to impose cloture in the Senate by simple majority vote.
4. We favor providing Members of Congress with more and better research and staff facilities, higher salaries, and retirement pay consistent with the pension fund for Federal employees.
5. We urge that congressional proceedings be broadcast from the floor.
6. We favor the regulation of the activities of all lobby groups and the publicizing of the sources of their funds.
7. We urge the registration by Members of Congress of their sources of income, and the registration of all dealings in securities and commodities by Members of Congress and members of their immediate families.

X. Discrimination and civil liberties

1. We oppose Jim Crow laws, anti-Nisei restrictions, and all other forms of racial discrimination by all individuals, by private businesses, by labor unions, Government, and other associations. We forbid it in our own ranks and we shall fight it in law and in practice wherever it is found.
2. We strongly and actively oppose any laws, practices, customs, or usages whereby any person or group by virtue of discrimination due to race, religion, color, or sex attempts to prevent another from obtaining employment, being paid at a fair rate for the services performed, living in any area obtaining a free and sound education, practicing any creed, or voting or enjoying any right of citizenship.
3. We urge laws to make such discrimination illegal and punishable, and to give members of minorities the right to sue for libel or slander against the whole majority group.
4. We strongly urge support of all movements for a permanent Federal fair employment practices law.
5. We urge that veterans organize to cooperate with other similarly minded groups and with governmental law-enforcement authorities to protect civil liberties particularly in such regions where they are now threatened.
6. We favor effective Government action to preserve, protect, and implement the civil liberties granted in the Constitution and other laws of the States and the United States.
7. We urge abolition of the House un-American Activities Committee.
8. We support discharge of conscientious objectors from Federal custody, but no faster than discharge of soldiers from the armed forces.
9. We urge a liberal immigration policy including immigration for all races, irrespective of the places of their origin, so that the United States may continue to serve as a refuge for the oppressed. We call upon Congress to enact legislation prohibiting immigration of all former members of Nazi and Fascist parties.
10. We endorse the following corrective legislation:
 - (1) That all resident aliens not now eligible to become naturalized citizens of the United States be so privileged on the same basis as for all other immigrant groups;
 - (2) That the Congress enact legislation providing indemnification for losses sustained by reason of the arbitrary evacuation of all persons of Japanese ancestry from the west coast in the spring of 1942;
 - (3) That deportation proceedings against persons of Japanese ancestry is carried out on the same basis as for other races; and
 - (4) That restrictive Federal, State, and municipal laws of a discriminatory nature be abolished and repealed wherever found.

XI. Tax policy

1. We consider fiscal policy to be critically important to full employment and full production. We therefore favor a tax program based upon ability to pay, to provide for the fullest development of our potential national resources, with the least possible restriction of production and employment, and inclusion in it of the following provisions: (1) As the basic source of tax revenue, a steeply graduated personal income tax and increased exemptions consistent with minimum levels of subsistence; (2) elimination of regressive excises and sales taxes; (3) financing of social-security benefits from the general revenues; (4) elimination of preferential tax treatment of capital gains and losses, with constructive realization of gains and losses upon gift or death; (5) elimination of tax-exempt securities;

(6) removal of the tax advantage presently enjoyed by persons residing in community-property States; (7) elimination of double taxation of corporate income, coupled with an undistributed-profits tax to compel current distribution of corporate income to shareholders; (8) offsetting of individual and corporate income by a 6-year carry-forward of net operating losses; (9) restriction of depletion allowances of industries engaged in exploitation of natural resources to recovery of the capital investment in such properties; (10) heavy increases in estate and gift taxes and immediate closing of all present loopholes; (11) prohibition of refunds of excess-profits taxes where the decline in corporate income results from other than reconversion costs, e. g., labor disputes; (12) revision of State and local taxation consistent with above objectives and coordination of Federal, State, and local taxation.

XII. Suffrage

1. We urge that residents of the District of Columbia should, in common with all other citizens, enjoy the right of suffrage upon a national and a municipal basis.

XIII. Territories and possessions

1. We favor the immediate admission of the Territory of Hawaii as the forty-ninth State; the consideration of Alaska for statehood; granting to the Virgin Islands increasing responsibilities of self-government; and giving to Puerto Rico the deserved right to vote on its political status.

2. We urge that there be no discrimination against the full citizenship rights of American Indians and that civil rights and citizenship be granted to the inhabitants of Guam and American Samoa. We further urge immediate civil rather than military government for the former Japanese mandated islands.

3. We believe that the continued subjection of Puerto Rico to colonial rule is contrary to our principles of national liberation and self-determination and to the principles of the United Nations, including the furtherance of world peace and justice between the peoples of all nations. In support of these principles, and to aid in establishing a basis for lasting friendship with Latin America, we urge that Puerto Rico be granted the right of self-determination in the creation of a democratic government, and that adequate economic assistance be extended to Puerto Rico to aid in the provision of its economic well-being.

STATEMENT OF MIKE M. MASAOKA, NATIONAL LEGISLATIVE DIRECTOR OF THE JAPANESE AMERICAN CITIZENS LEAGUE ANTI-DISCRIMINATION COMMITTEE, INC.

Mr. MASAOKA. My name is Mike—a good 'old American name, almost Irish—Masaoka.

I am the national legislative director of the Japanese American Citizens League Anti-Discrimination Committee, Inc.

I am a native of Salt Lake City, Utah, although we have our Washington offices now at 501 B Street, NE.

Senator DONNELL. And you are of what racial descent?

Mr. MASAOKA. I am a Japanese American—and in speaking of Japanese American—this may be a little corny—but I would like to suggest that we do not use the hyphen between the words "Japanese" and "American."

We may be short in stature but we say very definitely that we are not hyphenated in our Americanism.

The "Japanese" is simply a descriptive adjective modifying the noun "American."

Senator IVES. Pardon me, Mr. Chairman.

I do not think I could pronounce your last name. Do you mind if I call you Mr. Mike?

Mr. MASAOKA. Everyone calls me Mike.

Senator IVES. I would make a fiasco of it if I tried to pronounce your last name.

But I think you have hit on something that is pretty fundamental there—and perhaps you intended to, and perhaps you did not—but it is this hyphenated American business.

I think the time has got to come when we have to cease to be hyphenated Americans. We are Americans, or we are not Americans. Never mind where our ancestors came from, or who they were.

Mr. MASAOKA. I certainly agree with you, Senator.

I might say the only reason we use "Japanese" is simply to identify our particular problem at this time.

I hope soon that we will be able to eliminate "Japanese" or any other group.

I was born here; I served in the Army; and I would like to make a comment about that later but I would like just to say something about my education and perhaps even my religion, because at times people wonder just what the religion of a Japanese American might be.

Senator DONNELL. Pardon me.

Mr. MASAOKA, your father and mother were born in Japan; were they?

Mr. MASAOKA. Yes.

Senator DONNELL. And they came here to this country and you were born here, in Utah?

Mr. MASAOKA. Yes, sir. Well, I was born in Fresno, but I was raised in Utah, and went to school there. My legal residence is there.

I am a graduate of the University of Utah at Salt Lake City.

I majored in history and political science. This means, of course, that I am not an attorney and perhaps not qualified to discuss the technical features of this bill, but like everyone else that has a concern and interest in this bill, we know that there is something wrong, and that that something wrong is discrimination, largely in employment, and then in some other fields, and I would like to have something done about it.

Senator DONNELL. Before we go into the merits of the measure, Mr. MASAOKA, would you tell us please more fully what is the Anti-Discrimination Committee, Inc., for which I understand you are appearing here this morning?

Mr. MASAOKA. Yes.

The Japanese American Citizens' League is the over-all organization. It is the only national organization of Americans of Japanese ancestry in the United States.

Senator DONNELL. And how large an organization is that?

Mr. MASAOKA. It is an organization with 50 chapters in the United States, and about 10,000 members.

Senator DONNELL. That is, the Japanese American Citizens' League, has about 10,000 members?

Mr. MASAOKA. That is right.

Senator DONNELL. And how widely distributed are they over the United States?

Mr. MASAOKA. We have a chapter in the Senator's State of New York.

We have one in yours, Senator Donnell.

Unfortunately we do not have one in Louisiana, although we did train Japanese American combat troops part of the time in your State.

Senator ELLENDER. I do not think you have many Japanese in Louisiana; do you?

Mr. MASAOKA. Yes; we have a few in New Orleans, sir.

We have a chapter scattered in areas wherever there is a concentration of citizens of Japanese ancestry, but most of them, naturally, are on the west coast.

Senator DONNELL. Now, of your 10,000 membership, approximately how many are on the west coast?

Mr. MASAOKA. Of our 10,000 membership, I would say that at the present time approximately half are on the west coast.

Senator DONNELL. And how many are on the east coast?

Mr. MASAOKA. About a fifth, and the rest are in the Midwest.

Senator DONNELL. You have about 2,000, then, on the east coast.

Mr. MASAOKA. Yes.

Senator DONNELL. Where are those 3,000 located?

Mr. MASAOKA. They would be in areas such as St. Louis, Cincinnati, Cleveland, Denver, Salt Lake City, eastern Idaho, and parts of that sort.

I might say that while it is the Japanese American Citizens League, our membership is not confined only to Japanese-Americans. We invite the membership of other Americans of good will and we do have approximately, shall we say, about a thousand who are non-Japanese Americans.

Senator DONNELL. How many of Japanese origin are there other than on the west coast and the east coast who are members of the Japanese American Citizens League?

Mr. MASAOKA. Let me see.

I would say about 5,000 of our membership is on the Pacific coast, about 2,000 on the eastern seaboard, and approximately 3,000 in the rest of the United States.

None of our chapters, incidentally, are in the South.

Senator DONNELL. I was going to ask you about that in a moment.

Of those 3,000 that are elsewhere than on the two coasts, how many of those would you say are of original Japanese origin?

Mr. MASAOKA. Just about 9 out of 10, sir.

Senator DONNELL. Nine out of ten?

Mr. MASAOKA. Perhaps even a little higher.

Senator DONNELL. I see.

Pretty close, then, to about 3,000 of your membership other than on the two coasts are composed of persons whose ancestry was originally Japanese?

Mr. MASAOKA. Yes, sir.

Senator DONNELL. And you have very few in the South?

Mr. MASAOKA. We have no chapters in the South although we have some associated memberships.

Senator DONNELL. There are no chapters in the South?

Mr. MASAOKA. You see, a chapter to be regularly chartered must have a certain number. The number is 25, to become a chapter of the association.

Those who reside in areas in which we do not have chapters become associate members. I think we have two in Florida in that category.

Senator DONNELL. You are the national legislative director of this Anti-Discrimination Committee, Inc.?

Mr. MASAOKA. Yes, sir.

Senator DONNELL. Now, is that committee a subdivision of the Japanese American Citizens League?

Mr. MASAOKA. It is a separate group, incorporated for legislative purposes.

Senator DONNELL. How many persons belong to this incorporation, Anti-Discrimination Committee?

Mr. MASAOKA. Approximately the same, sir.

Senator DONNELL. The same as what?

Mr. MASAOKA. About 10,000.

Senator DONNELL. About 10,000. I see.

Mr. MASAOKA. It is almost automatic, unless they say, "We do not want to belong to the Anti-Discrimination League."

Senator DONNELL. I see.

Does this committee have occasional meetings?

Mr. MASAOKA. Yes, sir.

Senator DONNELL. Has it adopted any official expression of views?

Mr. MASAOKA. I would like to say very frankly that we have biennial meetings, sir.

Senator DONNELL. When was your last one?

Mr. MASAOKA. The last one was last year, in Denver, and at that time we did not endorse specifically any bill. We simply endorsed the idea of a fair employment practice act and we were directed by this national convention to do whatever we could to promote this kind of an act. Therefore, our various regional offices, and we have seven, as well as our various chapters, have cooperated with local organizations as well as individuals to try to secure the passage of State as well as national legislation.

Incidentally, in New York, where we have both a very active chapter as well as a regional office, we are very interested in the passage of Senator Ives' bill. We did what little we could because we are small in numbers, but we believe that that law embodies the kind of things that a lot of us fought for overseas.

Senator DONNELL. Now, I take it that as a national legislative director, you devote all of your time to the affairs of the antidiscrimination committee; is that right?

Mr. MASAOKA. Yes, sir.

Senator DONNELL. And, of course, you are paid a salary for your services.

Mr. MASAOKA. Yes, sir; all of which is registered in conformance with the Federal law.

Senator DONNELL. I see.

Proceed, sir.

Senator ELLENDER. Would you tell us how many Japanese are American citizens in the country?

Mr. MASAOKA. Yes. In the United States proper, exclusive of Hawaii—

Senator ELLENDER. You mean continental United States.

Mr. MASAOKA. We have 127,000 persons of Japanese ancestry.

Of that number, two-thirds are American citizens, because they were born here.

I would like to submit that the reason that our parents are not citizens is because by law they are denied that right.

On the other hand, I would also like to state that it is only a technical matter of citizenship as to Japan. Actually, every one of these people in the United States today of Japanese ancestry came here prior to 1924. They have a long record of demonstrated loyalty.

It is a record that has been screened and investigated probably better than any other group in the history of the United States.

So that there is no question in our minds as to their loyalty, and so on.

Senator ELLENDER. You say there are about 120,000 and 40,000 of them are not citizens because they are not able to be under the laws?

Mr. MASAOKA. That is right, sir.

Senator ELLENDER. Now, do you find that the discrimination, if any there be, is greater now than it was before the war, or just what is your opinion of the situation?

Mr. MASAOKA. I would like to answer that "Yes," and "No." Before the war, a great number of our parents had their own businesses and had their own farms.

With the war, of course, you know that we were evacuated out of our homes on the west coast. A lot of our farms and our businesses—well, our businesses are practically all gone. Our farms, some of them we kept, some of them we lost. Therefore, the problem of unemployment as such is more acute, generally speaking, than it was prior to the evacuation.

Senator ELLENDER. That is because you were employed by your own people?

Mr. MASAOKA. Yes.

On the other hand, I would like to say that there are some very bright spots in this matter. As you know, the Japanese Americans prior to the war were concentrated pretty largely on the west coast, and therefore the area of discrimination was largely confined there; but with the dispersement program that followed the evacuation, today we have persons of Japanese ancestry in every State in the Union.

Today also, as more Japanese Americans got to know America, so more Americans got to know us, and they realize that America makes Americans. It is not your ancestry; it is not your race; it is not your color. It is the fact that being here in America, being able to go to American schools and participating in American practices of freedom of opportunity, that you become pretty American.

And as we scattered throughout the United States, as the records of the Japanese American troops came in, people began to feel more kindly toward us, so that in large areas, particularly in the East and in the Midwest, the discrimination against persons of Japanese ancestry is not widespread. Certainly, it is not deep-rooted. It is somewhat superficial.

I would like to say here that we Americans of Japanese ancestry and our resident parents of Japanese ancestry went through a very peculiar and unique experience. That experience was being evacuated.

We were taught in our schools before evacuation what the Constitution of the United States meant, that certain civil and property rights could not be violated or torn asunder under any circumstances.

When war came, because we did not have a large body of Americans of Japanese ancestry—after all, we are one of the smallest groups in the United States—it was ordered by the military authorities that we be evacuated. We were given no trial and no hearing.

Yet, because we thought that it was our contribution to the war, our organization took the lead in it, and I, incidentally, took the lead, and that is why I am called Moses Masaoka by some of the Japanese.

Senator ELLENDER. Instead of Mike?

Mr. MASAOKA. That is right.

I urged our group, as our contribution to the war, even though it meant going bankrupt, practically, and going to jail, to cooperate with the Government, because we felt that at that time we could not raise the issue of disunity and constitutionality at a time when we needed all our resources, totally, to fight for the United States.

Gentlemen, just imagine what would happen if you were a citizen, as I was, and your mother and your brothers and everyone else were moved to the American concentration camp, with barbed-wire fences, military police with guns, out in the desert.

What would you think as an American?

Now, it seems to me that the greatest demonstration we have ever had in our history of true Americanism from enemy aliens, mind you, was when we were torn asunder, and can you imagine any other group volunteering from behind these barbed-wire fences to go out and fight for these United States, and our parents, and as I did in my own particular case? In the beginning, it was dangerous to volunteer for the United States Army. I, incidentally, happened to be the first.

Senator ELLENDER. Was it not a fact, though, that because there were discovered among the Japanese group quite a few who still thought solely of Japan rather than the United States, that you were treated as you were? Is that true?

Mr. MASAOKA. No, sir; that is not true.

The records of the Federal Bureau of Investigation—

Senator ELLENDER. You mean to say that all Japanese who were in this country when the war broke out were loyal Americans?

Mr. MASAOKA. I will not say that.

Senator ELLENDER. No; I know you would not.

Mr. MASAOKA. But the Federal Bureau of Investigation, the Army and Navy Intelligence, and the Office of War Information have cited time and time again in testimony, before various congressional organizations that before, since, and during the attack and even after the attack on Pearl Harbor, not a single instance of espionage or sabotage had been committed by a person resident in the United States of Japanese ancestry.

Now, frankly, after the war the FBI picked up those that they thought were dangerous and moved them out to special groups but what I am trying to drive at is this, sir. We believe that even though we have been kicked around pretty much because of our ancestry, that that was largely a matter of war hysteria. We had enough faith, vision, and courage, if you will, in the American way of life, that we were willing to go out and bear arms for the United States.

Now, that was particularly difficult in the cases of those who were expert in the Japanese language. We had approximately 5,000 troops in the Pacific, Americans of Japanese ancestry. A lot of them were dumped behind Japanese lines to come back with vital intelligence for the American Army.

After all, we know something about the German order of battle. We had fought them before. The Japanese were something new. We

did not even have trained specialists in the language. When war came, Americans of Japanese ancestry and other Japanese were used.

According to General Willoughby, who happened to be Chief of Intelligence for General MacArthur, the using of Japanese American troops in the Pacific shortened the war by approximately a year, saved perhaps millions of lives and billions of dollars.

Approximately 92 percent of all the intelligence handled in the Pacific went through the hands of the Japanese Americans of the United States Government. And it is interesting to note that although they handled so much, there is not even a single instance of a misinterpretation or the wrong translation given to a document.

Now, I happen to have served in the European theater with the Four Hundred and Forty-second Regimental Combat Team. I had four brothers who volunteered with me. Four of us served with the Four Hundred and Forty-second Infantry, which was generally said to be the most decorated military unit in American history for its size and length of service, and the fifth brother was a paratrooper.

One of my brothers was killed during the rescue of the lost Texas battalion in the Vosges Mountains.

Incidentally, I am an honorary Texan because I went with a unit that went with them into the Vosges. All of us were wounded.

Therefore, it is with that background that I would like to approach this problem of discrimination, particularly in employment.

Senator DONNELL. Do you have a copy of your statement?

Mr. MASAOKA. Yes, sir; and I would like, if I may, simply to submit it and make some observations generally on this subject.

Senator DONNELL. The statement will be received and will be set forth in full in the record of the proceedings, to follow your testimony.

Senator DONNELL. You may proceed, Mr. MASAOKA.

Mr. MASAOKA. Thank you, sir.

I would like to say that the pattern of discrimination is pretty much the same as the various minority groups we have seen throughout the United States.

In various sections of the country the intensity shifted, relating, of course, to past experience and localities as well as the number of people involved in that particular area.

I would like to begin by saying that the American soldiers of Japanese ancestry, like the American soldiers of other nationalities, while they were overseas fighting for the United States, discovered that there were certain fundamental truths. One of these was that bullets did not make a distinction, gentlemen, between whether you were a Japanese-American, a Negro-American, or shall we say, a Caucasian-American, and that dead, were they of Japanese ancestry, even of Chinese or any other ancestry, they were just as rotten and that the blood that fell and flowed from the men who were wounded was pretty much the same.

We recognized, too, that in wartime, when we were on the battlefield, we were not given assignments because we were Japanese-Americans or because we were Negro-Americans or anything else. We were given an assignment because we were there, and there was a job to be done.

Now, like so many other members of minority groups, we veterans felt that we would like to come back to America, and perhaps get a little better job than we had been able to get. After all, before the

war we had our discriminatory patterns on the west coast. Oftentimes a graduate engineer would have to work as a grocery clerk simply because he could not get employment.

We returned to the United States and then we discovered that we were running into this pattern of discrimination.

How was it?

Let me be specific about it.

In the Pacific Northwest, Oregon and Washington, and particularly in Washington, in and around Seattle, Americans of Japanese ancestry, although they were and are discharged veterans, although they might be Purple Heart wearers, were refused admission into the schools, the trade and vocational schools. The reason given was, "Well, even if you do graduate, you cannot get a union membership, and therefore there is no use taking up the time of the veterans in going to school."

We had a lot of veterans who used to belong to the CIO candy workers, also in Seattle. A lot of these people had accumulated seniority, and other benefits, within the union before they were evacuated.

They returned from the wars and found they could not get their union membership back.

Now, I am not trying to indict all labor unions, either the A. F. of L. or the CIO. They are pretty much like people. They are pretty much like employers. They vary according to temper, attitude, and various other things.

But I cite those as an illustration of what has been happening to our group.

We cite again the illustration of a man who was good enough to be a combat engineer officer in the United States Army, yet he cannot find a job in engineering around the entire San Francisco Bay area. Today he is a janitor.

Again, as I say, these patterns are pretty much alike, up and down the coast.

Now, we persons of Japanese ancestry feel like children of any other immigrant group, that the accident of group should not be held against us; that if we can prove that we can build a better mousetrap, as it were, we ought to be given a chance to make the American dream come true, because we see America as a great nation.

When we were behind barbed-wire fences, we still saw America as a great nation.

We still have great hopes for it, and that is why we are so interested in trying to strike out and eliminate as Americans every barrier which we feel stands against the equal opportunity for all.

Overseas, we had some insurmountable barriers. We had a mountain to take that no regiment had been able to take for 6 months. We took it.

Perhaps we feel that that discrimination in employment is just such an obstacle to freedom of enterprise and employment in the United States. We would like to make a frontal assault and have this our contribution, so that we say: "This is something that should not be in America and is certainly contrary to the spirit that moved and prompted America."

Gentlemen, I could go on and cite other cases, but I would like to make just two general observations and then submit myself for questioning.

One is this:

Immigrants, whether they came from Europe or from Asia, contributed to the building up of America. In the last war and the war before, when the very future life of America was at stake, it was these immigrants and the children of immigrants, along with, if you please, native Americans whose forbears long before them had come to the United States, who stood shoulder to shoulder with persons of all nationalities throughout the world, who believed in freedom, and there was this unity of all men who believed in freedom, and it was through this unity of purpose, the unity of believing that somewhere out of the chaos and confusion of war, out of the hell and bloodshed, we would be able to make a better and freer world.

But the second observation is this:

When we were on the Pacific coast, prior to the war, we felt that although we were a minority group, our problems were pretty much just our own. The evacuation and wartime treatment, together with the reception accorded us by other minorities, by other people, has convinced us that the problems of one minority are the problems of other minorities and that the problem of all minorities are also the problem of America, because we in America are just a Nation of minorities, amalgamated together, if you will, by the single purpose—that of making a greater Nation.

What I say today, what other gentlemen have testified to, is simply adding to what we believe is a total contribution to making America a better place in which to live, not just for ourselves alone but for every other American, and certain this particular bill will improve the employment status of our group. At least, we cannot be denied employment because we happen to be born Japanese. I did not ask for it any more than you gentlemen asked for your particular ancestry. You did not pick your mother; you did not pick your father.

But we have picked America as our home, and therefore we feel that in this oneness of purpose with all the minority groups, we ought to strive to make America the real inspiration, the real hope for the future, of all the world.

It so happens that in this last war the wartime treatment of Americans of Japanese ancestry received greater attention in the propaganda mills of the Axis, being particularly those of Japan, than any other group. At that time, even though we were behind barbed-wire fences, we protested to the Japanese, to the Chinese, to the Indians, and to everyone else of all the colored peoples in the world, that though we were treated as we were, this was not a race war.

The last war, we believe, and still believe, was a war between fascism and between the democracies.

Gentlemen, the way Japanese-Americans and other minorities will be treated by the United States will be another evidence of America's ability to square action with words; and by passing a bill of this nature, if I can be so blunt, we are purchasing a lot of good will and friendship among the peoples of the world, when we need it, for practically nothing, and I suggest and earnestly recommend that this subcommittee report out favorably at its earliest opportunity, this bill, because it will be a definite light throughout the world that

America means what it preaches; that America means to give every individual, on the basis of merit, the right to live; because, after all, employment itself is just a factor. If we cannot make a decent living, we cannot live. If we cannot make a decent living, we cannot have an American standard of living, and until we lift every person of America up to a high standard of living, even the highest standard of certain groups is pulled down.

We are asking for this bill because--from the dollars-and-cents point of view of all Americans, of you, Senators, as well as myself and everyone else in this room--because the passage of this kind of bill will raise, from a dollars and cents, if from no other point of view, the standard of living of all Americans.

Gentlemen, I shall be very happy, if I may, to answer whatever questions you may have about our group, about this bill, or anything else.

Senator DONNELL. Senator Ellender, have you any other questions?

Senator ELLENDER. I think maybe Mike should have been a lawyer.

Senator DONNELL. Senator Ives?

Senator Ives. No.

Senator DONNELL. We are very grateful to you for coming today, and we thank you for the views that you have so very helpfully expressed.

Thank you.

Mr. MASAOKA. Thank you.

(Mr. Masaoka submitted the following brief:)

STATEMENT OF MIKE M. MASAOKA, NATIONAL LEGISLATIVE DIRECTOR OF THE JAPANESE AMERICAN CITIZENS LEAGUE ANTI-DISCRIMINATION COMMITTEE, INC., BEFORE A SUBCOMMITTEE OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, JUNE 12, 1947, IN SUPPORT OF S. 984

Mr. Chairman and gentlemen of the committee, my name is Mike Masaoka. I am the national director of the Japanese American Citizens League Anti-Discrimination Committee, Inc. Our Washington offices are at 501 B Street NE.

The anti-discrimination committee is the incorporated legislative agency of the Japanese American Citizens League, the only national organization representing the interests of persons of Japanese ancestry in the United States. For purposes of the record, we have complied with the provisions of the Federal Regulation of Lobbying Act.

Our membership is composed of American citizens of Japanese ancestry and other Americans of good will in more than 50 chapters in the United States.

Last year, at our tenth biennial national convention held in Denver, Colo., the delegates unanimously approved a resolution favoring the passage of a fair employment practices act and directed our anti-discrimination committee to carry out the spirit of this mandate. As a result of this convention action, our various regional offices and our chapters in all parts of the country have cooperated with other organizations and agencies in actively supporting the enactment of State and Federal legislation to prohibit discrimination in employment because of factors other than ability.

From the practical, selfish point, we persons of Japanese ancestry join with our fellow Americans of all nationalities and religions in urging the passage of S. 984. We are aware that its passage will probably mean better jobs for all of us, thereby improving the common lot and life of all Americans, regardless of their race, religion, color, national origin, or ancestry. We see in S. 984 assurance and insurance of a more prosperous future for all of us as individuals and as a Nation. We welcome its enactment into law because we know that it will materially strengthen America's position in a suspicious and belligerent world that needs to know that our actions square with our words.

We commend the sponsors of this bill for their excellent declaration of policy that summarizes more adequately than we can the aims and the urgent need for this legislation.

"The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign policy of the United States."

We are pleased to note that this measure makes the right to employment without discrimination a civil right of all people. We are also gratified to note that this act is proposed as a step toward the fulfillment of our treaty and other obligations under the Charter of the United Nations and other international commitments.

We believe that this bill is a realistic and practical approach to the problem of eliminating race and color as discriminatory factors in employment, since it seems to embody the better features of previous bills and the experience of a number of States that have such legislation on their books. It enumerates specific unlawful employment practices for both employers and labor organizations and provides what appears to be a workable procedure to prevent these designated unlawful employment practices, with proper safeguards for the interests of all concerned through provisions for judicial review.

In common with many others who may not be technical experts on such legislation but are keenly aware of discrimination in employment because they have been among the victims of this unjustifiable practice, we submit that appropriate and adequate measures must be taken to protect the right to employment without regard to considerations other than ability, for the right to employment without discrimination is the very essence of the right to live. It is the most fundamental of all civil rights. Its denial negates every principle of freedom and equality we proclaim.

The bill now under consideration, S. 984, is more satisfactory than any that we have examined and seems to embrace those essential matters that assure its success. Accordingly, we urge this subcommittee to report out this bill favorably as soon as possible in order that the House and the Senate may have an opportunity to pass upon it before this session adjourns next month.

We persons of Japanese ancestry may not be too important a factor, numerically speaking, in the labor pool of this country, since we are among the smallest of the minorities in the United States. In addition, like so many other first generation immigrant groups, many of our employables work in small establishments employing less than 50 persons or on farms, neither of which, we understand, is covered by the provisions of this bill.

At the same time, we wish to emphasize that those of us who might be benefited under the terms of this legislation are subject to about the same kinds and types of discrimination as that faced by members of other minorities; in fact, we will venture that the pattern for discrimination in industry and labor unions is identical for all minorities except that it varies in intensity as against one group or another in various sections according to local prejudices and experiences.

On the west coast, and particularly in California, for example, we persons of Japanese ancestry are the special targets for discriminatory treatment that often goes beyond employment matters. But, even in Washington, Oregon, and California, the record of discrimination is spotty; that is to say, some localities differ from others that may be just a few miles away.

Again, we must confess that, because of the present unsettled labor market, it is most difficult to demonstrate where real discrimination begins and normal employment practices end.

Nevertheless, it must be said that when persons of a particular racial background are rejected time after time when other persons of other racial stock are accepted, a case can be made out for the consideration of this subcommittee and for the proposed National Commission Against Discrimination in Employment should S. 984 be enacted into law.

For instance, of our veterans who served with such conspicuous gallantry in Europe and in the Pacific, too many to be a mere coincidence have discovered that Presidential citations, medals, and Purple Hearts cannot overcome the accident of birth.

Like so many other soldiers of all nationalities, American combat and intelligence troops of Japanese ancestry returned to civilian life with high hopes of obtaining better jobs than they had prior to the war. In most cases, they have been tragically disillusioned.

If the individual American, be he of Japanese or of any other ancestry, knew that he would be judged solely on his individual merits and abilities as a person, he would put even greater effort into the perfection of his talents than at the present time when his ambition and his vision may tend to be stunted by prejudice and fear of class discrimination.

The declaration that the right to employment without fear of discrimination is a civil one, together with the establishment of appropriate guarantees, would prove a greater incentive to increased learning and leadership than anything else of which we can conceive.

Those now "existing" in menial tasks far below their abilities and dignities would help to fill the present shortage in the skilled and specialized lines that are so vital to our future.

Those preparing for future livelihood would have a new spirit and a new confidence that would assure world leadership to these United States.

We commend the inclusion of labor organizations in S. 984. For our experience with some unions has not been favorable.

Labor unions, like employers, vary in temperament and attitudes. Not all are bad; certainly not all are good. All persons of Japanese ancestry, we have found unions in both the AFL and the CIO that have solicited our membership and have gone out of their way to protect our union status and our right to employment. On the other hand, there still are many unions that deny membership to any except those of the so-called Caucasian race.

Before the war, through the courtesy of several unions, persons of Japanese ancestry were permitted to organize auxiliary unions, to pay dues and assessments, but not to enjoy the usual benefits of union membership. Today, in many west coast localities, we are not even granted the privilege of forming these segregated unions. In areas where union controls extend to almost all phases of human endeavor, inaccessibility to membership amounts to a denial of the right to employment, and, therefore, even of life itself.

In Seattle, Wash., we are informed that the all-powerful teamsters' union will not accept the membership of persons of Japanese ancestry. We understand that a select few have been permitted to go to nearby towns and join their locals but not the major AFL union. Because of this unfortunate situation, persons of Japanese ancestry living in this community and attempting to do business are seriously handicapped. For instance, they must hire union truckers to deliver produce to their respective stores and customers; they cannot use their own facilities.

In this same Northwest metropolis, the CIO Cannery Workers Union that at one time had more than 300 Japanese members now refuses to pass on their membership. Because of a labor shortage in the fish-packing industry, all Japanese and other workers are permitted cards but not membership. By refusing to reinstate the former Japanese members, the unions are depriving these persons of their seniority and other rights that they built up over the years prior to the outbreak of the war.

Leaders in labor today are denouncing the legislation just enacted by this Congress as unfair and discriminatory; they are calling upon the President to veto it. Without passing judgment on labor's allegations, we submit that certain segments of labor, too, have been unfair and discriminatory in their dealing with various minorities. Before they ask for "equality," they should extend some of that same "equality" to those who seek membership within their ranks.

S. 984 appears to set up the necessary machinery to do just this.

Another employment problem faced by persons of Japanese ancestry that this legislation may be able to correct arises out of a patent discrimination in our Federal laws that deny to a few Asians the privilege of naturalization.

Since the Japanese resident nationals comprise the largest of this ineligible to naturalization group residing in the United States, they are the ones who are penalized by the more than a hundred municipal, State, and Federal laws that bar certain fields of employment to aliens. Because they cannot become citizens and thereby remove themselves from these barred categories, they are forever denied the privilege of seeking work in these lines.

Moreover, in at least one instance that we know of, one State, California, has enacted a law that specifically prohibits only aliens ineligible to citizenship from engaging in commercial fishing. Curiously enough, California argues that this was enacted as a conservation measure.

We feel that such obviously discriminatory legislation prohibiting Japanese aliens from employment in certain fields of human endeavor violates the pur-

poses and policies of this bill. And, under paragraph (b) of paragraph (g) of section 6, we believe that the National Commission Against Discrimination in Employment is empowered "to make such technical studies" as these legislative inequalities, since they "are appropriate to effectuate the purposes and policies of this Act and to make the results of such studies available to interested governmental and nongovernmental agencies."

Such highly significant studies might result in either the repeal of these discriminatory laws or their modification to conform to the spirit of S. 984.

While some of the foregoing observations may not appear germane to these hearings, may we suggest that they are very real and near to us, that they constitute employment problems that cloud our entire future, and that their implications go far beyond the territorial confines of the United States.

In World War II, persons of Japanese ancestry were singled out for unprecedented treatment and became, in the eyes of most of the world, America's symbol of intolerance. What happened to us was highlighted by the Axis propagandists, particularly those of Japan, as another example of democracy's autocracy.

Today, even though the military victory has been won, millions of people in all parts of the world, and particularly in Asia, are looking to the United States for leadership in the continuing struggle for survival. They prefer our American way of life and our system of government. But they are not convinced that we as a nation and as a people are sincere in our professions of freedom and opportunity for all. They question our practices as against our professions.

Last Monday, June 9, Dr. Walter H. Judd, Congressman from Minnesota, who has introduced in the House of Representatives a bill identical with the one now under consideration, declared that the United States, not Russia, is the question mark of the world.

Addressing the one hundred and eighth commencement class of Miami University in Oxford, Ohio, Dr. Judd, who probably knows the Orient as well as any man in Congress, said:

"America and other freedom-loving nations must learn to play as a team in peace as we do in war. Eighty percent of the nations will join with us if we show them we mean to resist totalitarianism.

"We, not Russia, are the question mark to millions and millions of men and women who love freedom and will fight and die for it if only they have hope.

"These people look to Washington, D. C., and not to the Kremlin for guidance. Even the Kremlin's decisions depend on the decisions made in Washington."

This, Mr. Chairman, is the challenge to the Congress put by your colleague in the Lower House—a challenge, incidentally, that is backed up by 10 years of experience as a medical missionary to China.

It is our considered judgment that this Congress can do much to win the good will and the friendship of many nations and many peoples by enacting into law S. 984. For, by prohibiting discrimination in employment based upon race, religion, color, national origin, or ancestry, you are demonstrating by your actions and not by words alone that employment is a public responsibility and trust. This means that the right to live according to American standards will be assured to all within these United States. This means that more than ever the down-trodden of the world will look to America for guidance and leadership in this troubled age.

S. 984 is a guide to the present and future thinking of the Members of this Congress. By approving this measure, you will not only give new faith and courage to millions in the United States who are today being penalized and handicapped through no fault of their own but also to the hundreds of millions of confused and bewildered people on this earth. You will reaffirm the principles upon which this Nation was founded and for which so many of our fellow Americans gave their lives in battle.

Thank you.

Senator DONNELLY. The committee will be in recess until 9:30 tomorrow morning.

(Whereupon, at 12:30 p. m., the committee recessed until 9:30 a. m., tomorrow, Friday, June 13, 1947.)

If the individual American, be he of Japanese or of any other ancestry, knew that he would be judged solely on his individual merits and abilities as a person, he would put even greater effort into the perfection of his talents than at the present time when his ambition and his vision may tend to be stunted by prejudices and fear of class discrimination.

The declaration that the right to employment without fear of discrimination is a civil one, together with the establishment of appropriate guarantees, would prove a greater incentive to increased learning and leadership than anything else of which we can conceive.

Those now "existing" in menial tasks far below their abilities and dignities would help to fill the present shortage in the skilled and specialized lines that are so vital to our future.

Those preparing for future livelihood would have a new spirit and a new confidence that would assure world leadership to these United States.

We commend the inclusion of labor organizations in S. 984. For our experience with some unions has not been favorable.

Labor unions, like employers, vary in temperament and attitudes. Not all are bad; certainly not all are good. All persons of Japanese ancestry, we have found unions in both the AFL and the CIO that have solicited our membership and have gone out of their way to protect our union status and our right to employment. On the other hand, there still are many unions that deny membership to any except those of the so-called Caucasian race.

Before the war, through the courtesy of several unions, persons of Japanese ancestry were permitted to organize auxiliary unions, to pay dues and assessments, but not to enjoy the usual benefits of union membership. Today, in many west coast localities, we are not even granted the privilege of forming these segregated unions. In areas where union controls extend to almost all phases of human endeavor, inaccessibility to membership amounts to a denial of the right to employment, and, therefore, even of life itself.

In Seattle, Wash., we are informed that the all-powerful teamsters' union will not accept the membership of persons of Japanese ancestry. We understand that a select few have been permitted to go to nearby towns and join their locals but not the major AFL union. Because of this unfortunate situation, persons of Japanese ancestry living in this community and attempting to do business are seriously handicapped. For instance, they must hire union truckers to deliver produce to their respective stores and customers; they cannot use their own facilities.

In this same Northwest metropolis, the CIO Cannery Workers Union that at one time had more than 300 Japanese members now refuses to pass on their membership. Because of a labor shortage in the fish-packing industry, all Japanese and other workers are permitted cards but not membership. By refusing to reinstate the former Japanese members, the unions are depriving these persons of their seniority and other rights that they built up over the years prior to the outbreak of the war.

Leaders in labor today are denouncing the legislation just enacted by this Congress as unfair and discriminatory; they are calling upon the President to veto it. Without passing judgment on labor's allegations, we submit that certain segments of labor, too, have been unfair and discriminatory in their dealing with various minorities. Before they ask for "equality," they should extend some of that same "equality" to those who seek membership within their ranks.

S. 984 appears to set up the necessary machinery to do just this.

Another employment problem faced by persons of Japanese ancestry that this legislation may be able to correct arises out of a patent discrimination in our Federal laws that deny to a few Asiatics the privilege of naturalization.

Since the Japanese resident nationals comprise the largest of this ineligible to naturalization group residing in the United States, they are the ones who are penalized by the more than a hundred municipal, State, and Federal laws that bar certain fields of employment to aliens. Because they cannot become citizens and thereby remove themselves from these barred categories, they are forever denied the privilege of seeking work in these lines.

Moreover, in at least one instance that we know of, one State, California, has enacted a law that specifically prohibits only aliens ineligible to citizenship from engaging in commercial fishing. Curiously enough, California argues that this was enacted as a conservation measure.

We feel that such obviously discriminatory legislation prohibiting Japanese aliens from employment in certain fields of human endeavor violates the pur-

poses and policies of this bill. And, under paragraph (6) of paragraph (g) of section 6, we believe that the National Commission Against Discrimination in Employment is empowered "to make such technical studies" as these legislative inequities, since they "are appropriate to effectuate the purposes and policies of this Act and to make the results of such studies available to interested governmental and nongovernmental agencies."

Such highly significant studies might result in either the repeal of these discriminatory laws or their modification to conform to the spirit of S. 984.

While some of the foregoing observations may not appear germane to these hearings, may we suggest that they are very real and near to us, that they constitute employment problems that cloud our entire future, and that their implications go far beyond the territorial confines of the United States.

In World War II, persons of Japanese ancestry were singled out for unprecedented treatment and became, in the eyes of most of the world, America's symbol of intolerance. What happened to us was highlighted by the Axis propagandists, particularly those of Japan, as another example of democracy's autocracy.

Today, even though the military victory has been won, millions of people in all parts of the world, and particularly in Asia, are looking to the United States for leadership in the continuing struggle for survival. They prefer our American way of life and our system of government. But they are not convinced that we as a nation and as a people are sincere in our protestations of freedom and opportunity for all. They question our practices as against our professions.

Last Monday, June 9, Dr. Walter H. Judd, Congressman from Minnesota, who has introduced in the House of Representatives a bill identical with the one now under consideration, declared that the United States, not Russia, is the question mark of the world.

Addressing the one hundred and eighth commencement class of Miami University in Oxford, Ohio, Dr. Judd, who probably knows the Orient as well as any man in Congress, said:

"America and other freedom-loving nations must learn to play as a team in peace as we do in war. Eighty percent of the nations will join with us if we show them we mean to resist totalitarianism.

"We, not Russia, are the question mark to millions and millions of men and women who love freedom and will fight and die for it if only they have hope.

"These people look to Washington, D. C., and not to the Kremlin for guidance. Even the Kremlin's decisions depend on the decisions made in Washington."

This, Mr. Chairman, is the challenge to the Congress put by your colleague in the Lower House—a challenge, incidentally, that is backed up by 10 years of experience as a medical missionary to China.

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ANTIDISCRIMINATION IN EMPLOYMENT

FRIDAY, JUNE 13, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to notice, at 9:30 a. m., in the committee room, Capitol Building, Senator Forrest C. Donnell presiding.

Present: Senators Donnell (presiding), Murray, and Ellender.

Also present: The Honorable Richard B. Russell, a Senator from the State of Georgia.

Senator DONNELL. The committee will be in session.

Mr. Ben Herzberg is the first witness this morning.

STATEMENT OF BEN HERZBERG, SPEAKING FOR HON. JOSEPH M. PROSKAUER, CHAIRMAN, AMERICAN JEWISH COMMITTEE, NEW YORK, N. Y.

Senator DONNELL. I understand you are speaking on behalf of the Honorable Joseph Proskauer, chairman, American Jewish Committee; is that correct?

Mr. HERZBERG. Yes, sir.

Senator DONNELL. Mr. Herzberg, will you tell us, please, briefly, what is the American Jewish Committee, what is its size, composition, and what are its functions?

Mr. HERZBERG. The American Jewish Committee, sir, was organized about 40 years ago. It is devoted to the protection of Jewish civil rights. It has chapters all over the United States. Its membership, I would say, is about 8,000.

I think it has a reputation over these 40 years for restraint and judgment in the expression of its opinions.

Senator DONNELL. Does it have any membership south of the Mason and Dixon line?

Mr. HERZBERG. Yes, sir.

Senator DONNELL. For instance, in Atlanta or New Orleans?

Mr. HERZBERG. Yes, and in Dallas—all through the United States.

Senator DONNELL. Now, the views that you are going to present here this morning are your own views or those of Mr. Proskauer, or are they the views of the American Jewish Committee?

Mr. HERZBERG. They are the views of the organization.

Senator DONNELL. And how has the organization expressed its views, through resolution or formal action or informal action?

Mr. HERZBERG. Through formal action of its administrative and executives committees.

Senator DONNELL. When was the latest expression made with respect to this general subject?

Mr. HERZBERG. At the time, sir, that we received your invitation to come down here.

Senator DONNELL. That is to say, the executive committee?

Mr. HERZBERG. The administrative committee which is the same as the executive committee of a corporation.

Senator DONNELL. Now, the administrative committee is composed of how many persons?

Mr. HERZBERG. About 30 persons.

Senator DONNELL. From one locality or generally?

Mr. HERZBERG. Scattered over the entire country.

Senator DONNELL. And did it pass a resolution on the subject matter of this proposed bill, S. 984?

Mr. HERZBERG. That is correct, sir.

Senator DONNELL. Do you have a copy of that resolution?

Mr. HERZBERG. I am sorry I do not. The administrative committee does not usually act by formal resolution but this matter has been before the American Jewish Committee a number of times.

Judge Proskauer, for instance, appeared before the legislative committee in New York State where, as you know, a similar bill was adopted. It was the occasion for discussion then; it has been the occasion for discussion ever since.

I think I can say that our position represents the almost unanimous, if not unanimous, view of the entire membership.

Senator DONNELL. But the administrative committee, meeting after notice of these hearings, did not pass a formal resolution on the matter?

Mr. HERZBERG. It was by a voice resolution.

Senator DONNELL. Was that incorporated in your minutes?

Mr. HERZBERG. Yes, sir.

Senator DONNELL. And you do not have a copy of those minutes?

Mr. HERZBERG. No, sir.

Senator DONNELL. Would you be kind enough to send to the secretary of this committee within the next few days, Mr. Herzberg, a copy of the action so taken of that committee?

Mr. HERZBERG. Some formal expression?

Senator DONNELL. Yes.

Mr. HERZBERG. Certainly, sir.

(Subsequently Mr. Herzberg submitted the following memorandum.)

The attention of the administrative committee was called to the fact that Federal legislation modeled on the Ives-Quinn bill in New York and sponsored by the National Council for a Permanent Fair Employment Practice Committee has been introduced in Congress; that hearings thereon are scheduled for the near future; and that Judge Proskauer has been asked to testify in behalf of the American Jewish Committee in support of the bill. Thereupon, a resolution authorizing Judge Proskauer or, in the event of his inability to appear personally, someone delegated by him to testify in the name of the American Jewish Committee, was unanimously adopted.

Adopted June 8, 1947.

Senator DONNELL. Very well, proceed with your statement.

Mr. HERZBERG. I will not take your time to discuss the principles underlying the bill. I am sure at previous hearings those principles have been fully discussed and of course they are set out in the proposed finding of the bill.

I want to discuss certain practical aspects of the bill, if I may. In the first place, I would like to comment on one provision—

Senator DONNELL. May I interrupt to inquire what is your own personal connection with the American Jewish Committee?

Mr. HERZBERG. I am chairman of the legal and civic affairs committee.

Senator DONNELL. Are you a lawyer?

Mr. HERZBERG. I am a lawyer in New York.

Senator DONNELL. Are you practicing there?

Mr. HERZBERG. Yes, sir.

Senator DONNELL. And you have practiced your profession for quite a number of years in New York?

Mr. HERZBERG. About 25.

Senator DONNELL. Did you give your address to the reporter or not?

Mr. HERZBERG. I believe I did not. It is 20 Pine Street, New York City.

Senator DONNELL. All right, proceed.

Mr. HERZBERG. The bill before the committee is limited in its coverage to establishments employing 50 or more employees.

By that single provision, Mr. Chairman, the restraint imposed by the act has been reduced, it seems to me, to the minimum, while at the same time the benefits intended by the act have been widely extended.

You have covered a number of relatively small percentage of the employers but nevertheless have covered the largest number of job opportunities.

The census figures for 1939, Mr. Chairman, reveal that less than 15 percent of the manufacturing establishments in the United States employ as many as 50, while at the same time that 15 percent employ over 80 percent of all the employees engaged in manufacture in the United States.

In other words, with the minimum of regulation you have covered the maximum of job opportunities.

I said I would not discuss the principles because I am sure they have been adequately discussed; nevertheless, you have still four serious questions to which, with your permission, I would like to address myself.

The first is whether this effort should be on a national or a State level.

Now, I am mindful of the fact, as I am sure you are, sir, that State efforts at this suppression of child labor as affecting sound minimum wages were not very successful, and I think most, if not all, of us are glad that the Congress intervened in those fields.

Now, it does not follow in mind from that, however, that regional differences must not be allowed for in the administration of the act.

I think in one concept a doctrinaire idealist would want to disregard them, because if you do, instead of having a reduction in friction, which is one of the objectives of this bill, you are going to have an increase in friction.

Now, I cannot conceive of the President appointing commissioners that would not have the good sense and the tact to allow for those regional differences and adjustment of the administration to the practical conditions presented to the commission, and I am sure if the President, sir, were to appoint commissioners who would not effect a wise, sensible administration gaged to regional differences, you would not confirm those men.

Now, there still remains the question whether, as applied to the individual plant, the enforcement of this act would not cause more friction than it would remove.

Now, clearly, if you took the manufacturing plant, for instance, where a certain minority had been excluded and suddenly forced that plant to take on a large number of the formerly excluded minority, you are going to have friction.

That is not the way the act has worked in New York, where it has been tried.

After all, the Commission acts on individual complaints. I think the experience in New York is a good experience, because there, as you know, minorities which elsewhere are small are large in that State, and I think you will agree with me they are vocal in that State, and yet, notwithstanding that, there has been no friction.

The inclusion of formerly prohibited minorities is taking place largely in large establishments such as insurance companies, department stores; and such reports as I have seen—and I have looked for reports pro and con—have been that there has been a diminution, not an increase, in prejudice as a result of the enactment in New York of the Ives-Quinn bill.

SENATOR ELLENDER. When did you make that survey?

MR. HERZBERG. I made that preparatory to coming here. I got the reports of the State Commission Against Discrimination. I spoke to members of the commission.

SENATOR ELLENDER. Do you not attribute that also to the fact that unemployment is at a low ebb at this period of our time?

As I pointed out on numerous occasions, I saw an article several days ago to the effect that unemployment was at a very low rate and that the employment figure has now reached a peak of over 58,000,000, something unprecedented in our history. Do you not think that has something to do with it?

MR. HERZBERG. Not under the question to which I am addressing myself, sir.

SENATOR ELLENDER. How can you differentiate?

MR. HERZBERG. I am saying here that at the time law was enacted in New York that the inclusion of minorities formerly prohibited by some establishments would cause friction. That friction has not developed.

It is because the law has been administered wisely, very gradually applied, large numbers have not been forced upon any employer.

Instead of that, it has proceeded as you would in your practical affairs, trying small numbers, selected personalities, because, after all, this is a slow, educational process.

SENATOR ELLENDER. Well, along that line of reasoning, what do you think would occur in a State where the Negro population is equally divided with whites, if an attempt were made to impose that law and enforce it as it is overnight; what would you say to that?

Mr. HERZBERG. Before you came in, Senator, I was saying that while I believe there should be a national law, any commission would have to allow for just such conditions as you speak of.

There cannot be uniform application of this law any more than there was uniform application, for instance, of the wage-and-hour law. There were regional differences allowed for in that law. Here they will be allowed for in the administration.

Senator ELLENDER. Are you for the law as written?

Mr. HERZBERG. I am for the law as written.

Senator ELLENDER. Would not the administrators of it be violating the law if they failed to carry out what the law said?

Mr. HERZBERG. I think not. I think it would be understood that the President and you intended to give a broad measure of wise discretion to these Commissioners.

Senator ELLENDER. But the bill does not do that. It says it has got to be done.

Mr. HERZBERG. But you know in public office while you live up to the spirit of your obligation, you have a broad discretion in the timing of those activities. Let me tell you—

Senator DONNELL. Let me state at this point that I thoroughly concur with the Senator from Louisiana that this law lays down a rule; and, personally, if this Congress passes this law, I expect it to be enforced. I am certainly not passing this law with a mental reservation that here and there it can be disregarded if the Commissioners deem it inadvisable to enforce it. I think this bill lays down a definite rule of action which must be followed.

Now, maybe that is wise or maybe that is unwise, but it does not say that the Commission has discretion. It says:

It shall be unlawful practice for an employer to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry.

And the Commission, as I understand it, is expected to enforce that law, and if the Commission issues an order on it and the order is not obeyed, the Commission is vested with authority to go before the court and petition a circuit court of appeals, or in some instances a district court, for enforcement of the order; and thereafter the court itself may issue a decree requiring the enforcement of the order and may enforce that decree, as testimony has been had before this committee, by gentlemen who I think are competent to pass upon the construction of the bill, by contempt proceedings, which of course means possibly by fine or imprisonment.

I think that is a fair statement of the bill. I am not undertaking to say whether the bill ought or ought not to be passed. That is what we are considering here.

I could not agree with the view that you can take this bill as now written and then say that the Commission has power here or there to dispense with its enforcement.

Mr. HERZBERG. I am not suggesting that. But I am suggesting that any wise administrator gauges his course of conduct by local conditions and has very much in mind the element of time; it is done by administrators appointed by the President and confirmed by you in all departments of the Government.

Let me tell you the experience in New York.

I know we have a reputation of being a vocal State.

Senator ELLENDER. New York?

Mr. HERZBERG. Yes, sir.

Senator ELLENDER. Conditions in New York, as was pointed out here sometime ago, are such as to make it more or less the guinea pig of the Nation. Many of its problems are traceable to the race situation, yet its lawmakers formulate a pattern for New York and try to make it apply all over the country.

Mr. HERZBERG. Let me tell you what the enforcement picture has been in New York, because I think it is more concerned about the friction it would cause than the record would support.

I suppose we have a population in the State of New York of about 15,000,000. In the 2 years in which the Ives-Quinn law has been on the statute books in New York, out of that vast population, only 654 complaints have been filed with the commission; and in each one of those, sir, there—

Senator ELLENDER. I hope it never occurs that mass unemployment comes into being, but if it does you will see what is going to happen.

The reason for no trouble at the present is because there is employment for everybody. But just wait until the time when from 10 to 15 percent of the employees over the country find themselves without employment, and then I want you to come and tell me about the administration of that law.

Mr. HERZBERG. There has been a considerable falling off since VJ-day, particularly among some minorities, and yet the complaints filed with the New York commission have not been accelerated.

I do not deny that you will get more complaints as employment declines. But what I do say is that if 2 years ago at the time of the enactment of the law in the guinea-pig State, I had predicted to you, sir, that there would be only 600 complaints filed in the State of New York, I am quite sure that we would all have felt that was a ridiculously low figure.

Senator ELLENDER. I would rather think that all this hullabaloo about discrimination has been more or less a state of mind in many instances and is overexaggerated; and I believe that that, together with full employment, accounts for this small number of 600 complaints that you speak of.

Mr. HERZBERG. Senator, I do not think that New York is free from discrimination by any means.

I think the small number is due to two things or perhaps three. One is the state of employment to which you refer; second, to the reluctance of individuals to file complaints; and, third, to the knowledge that the commission is proceeding slowly.

They know that they cannot bludgeon out prejudice. They are going to do their job well, and that is what they were charged with doing. They have to proceed slowly and through methods of persuasion and negotiation. I think it is a most remarkable factor that out of these 654 complaints, in every case where there was found to be any merit, the matter was disposed of by negotiation, and there has not been a single case where there has been as much as a hearing before the commission in New York, much less a resort to the courts.

Senator ELLENDER. How many cases of these 600 were unfounded, do you know?

Mr. HERZBERG. I am sorry; I do not have those figures. My recollection is about 25 percent.

Senator ELLENDER. I wonder if you would be good enough to tell us as among what group, whether it be Jewish or colored or Italians, or what not, in New York, is there evidence of most discrimination?

Mr. HERZBERG. I think unquestionably there is the greatest discrimination against Negroes.

Senator ELLENDER. Well, would you be able to classify them percentage-wise?

Mr. HERZBERG. I could not do that, sir.

Senator ELLENDER. Well, would you be able to state the percentage as to Negroes?

Mr. HERZBERG. The only figures I have in mind are the figures you probably know, from the report made by the President's Committee on the FEPC. That report calls attention to the decline, percentage-wise, in employment after VJ-day by groups, and that decline, of course, has been most marked against Negroes. There is a substantial decline among Jews and Italians.

To follow up your question, sir, I think the next two most discriminated against groups in New York are Jews and Italians. I could not tell you where the discrimination is greater. I think there is a difference in different parts of the State, and that is what I was urging before you came in, Senator, that without deviating from the long range, from the principles, in the administration of a measure of this sort, there must be adjustment for regional differences, even differences within the State itself.

Senator ELLENDER. Senator Donnell and I pointed out to you there is no such provision in the law, and if it is ever signed by the President, it will have to be administered as written, unless somebody is going to be violating his oath of office.

Senator DONNELL. I might add, in connection with that, Senator, on page 11 of the bill, line 6 and following:

If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the act.

It makes it mandatory.

Mr. HERZBERG. Take all your administrative offices. Take enforcement, if you will, of crime, your district attorney, or your United States attorney, is constantly called upon to exercise judgment; and in New York I know where we supported this bill we wanted the Commission to proceed as they did.

There have been more than 654 cases of discrimination in New York in 2 years, many thousands more than that, but there is a general satisfaction that with this difficult problem, which can only be worked out slowly, that the Commission has established the tempo that in the long, long run, in the distant future to which we are all looking, conditions will be improved.

Let us not destroy a desirable bill so far as principles are concerned by envisaging an administration that would be impractical and destroy the objectives of the measure.

Senator DONNELL. Mr. Herzberg, you would not advocate just passing a law and then winking at it, just passing it by?

Mr. HERZBERG. I do not wink at actions of the district attorney.

Senator DONNELL. I am talking about this bill. You are a lawyer, a member of the bar; Judge Proskauer is a member of the judiciary. Certainly you gentlemen are not advocating we pass a bill here on the theory that by tacit consent in some communities it may be enforced 100 percent and in some other communities that the enforcement may be lax and not properly conducted in accordance with the terms of the bill; you are not advocating that, are you?

Mr. HERZBERG. No such general approach as that. But what I am advocating is that these commissioners should be men of judgment, and, like men of judgment, will not attempt the impossible.

Senator DONNELL. They will be required to perform the duties set forth in this bill.

Mr. HERZBERG. Exactly. I am sure, as I said, the commissioners in New York have not reached every case of discrimination, but, nevertheless, they advance the objectives that they have been sworn to advance.

Senator DONNELL. Well, of course, this bill does not require that the Commission start out as what I might term a detective agency to find out where the violations are, but it provides in here that "whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the act has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion."

There is a lengthy procedure along that line, and finally, if all these methods fail, then there comes into effect the provision that I have recited here from page 11, in which it is obligatory upon the Commission to state findings of fact and issue and cause to be served an order requiring the person whom it deems violating the law to cease and desist from the unlawful employment practice.

Mr. HERZBERG. The law as is written, as most measures are written, but it still contemplates discretion, judgment. I am so anxious to see the principles embodied in this measure adopted that I do not want impractical considerations to impede the passage.

Senator ELLENDER. You would expect it to be enforced if it is passed?

Mr. HERZBERG. I would expect it to be wisely enforced and gradually and moderately enforced.

Senator DONNELL. You mean "wisely enforced" where the Commission thinks it ought to be enforced and not where the Commission does not think so?

Mr. HERZBERG. I mean to say very simply that if conditions are such that greater friction will be caused at one time at one place than will be removed, the Commission will proceed very slowly.

Let me illustrate to you. There is a charge against a plant where there is discrimination, where a certain minority is excluded. It lies with that Commission to say, you take on one employee, or two or

three. Let me tell you: Commissioner Reiss in New York explained how they approached a situation in up-State New York. There was a telephone exchange that employed no Negroes. The evidence of discrimination was clear; it was not denied. The operators said, if you cause us to take on Negroes, our white employees will leave.

Now, if this Commission had enforced that act blindly and without discretion, they would simply have sat back and said, you have to take in a certain number.

Instead of that, it urged the telephone exchange to take on a couple of the most favorable personality. That exchange did that and it worked.

Now, you may say to me: There was a clear violation of the New York act, that as the New York law was written—and it is written no differently in this respect than the one before you—that the Commission should have done something else than that, proceeded more vigorously.

We do not feel that is a violation of the law; so clearly do we not that in a public address the commissioner of our State could say so.

I do not expect wonders from this law. I know progress must be slow. But just because I know how slow that progress will be, I am confident that the fears attained with respect to that law are probably exaggerated.

Senator DONNELL. Have you had any personal connection with the commission in New York, officially?

Mr. HERZBERG. Not officially.

Senator DONNELL. You have not been employed by the commission as counsel?

Mr. HERZBERG. No; but I have attended hearings; I have spoken to the attorneys for the commission; I have spoken to various commissioners.

Senator DONNELL. I did not mean to imply lack of knowledge of the workings of the commission but I wanted to develop whether you had employment with the commission or acted as counsel for them. I understand you have not.

Mr. HERZBERG. Yes, sir.

Senator DONNELL. Mr. Herzberg, you have filed with the committee a statement of the American Jewish Committee in support of this bill, and would you like that statement regularly incorporated in the record along with your testimony that you have given this morning?

Mr. HERZBERG. If that is agreeable to you.

Senator DONNELL. It will be so ordered; yes, sir.

Is there anything further you have, Mr. Herzberg?

Mr. HERZBERG. No, sir.

Senator DONNELL. Thank you very much, Mr. Herzberg, for coming. (The brief referred to is as follows:)

STATEMENT OF THE AMERICAN JEWISH COMMITTEE IN SUPPORT OF BILL TO PROHIBIT DISCRIMINATION IN EMPLOYMENT

The American Jewish Committee is wholeheartedly in favor of the bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry, S. 984, and we urge upon the Congress its enactment.

The purpose of the bill is well expressed in the findings and declaration of policy (sec. 2 (a)) and need not be repeated here. We are in thorough agreement with the statement that the kind of discrimination aimed at by this bill is contrary to the American principles of liberty and equality of opportunity.

We may add that it has been asserted by economists that discrimination in employment which deprives a substantial segment of the citizenry of unrestricted access to employment is injurious to the national economy. The reason for this is apparent. At a time when we are straining to increase production, discriminatory employment practices, based upon race, color, religion, and national origin, artificially diminish the available manpower to do the job. This curtailment of the labor market necessarily retards production.

Moreover, it is well known that racial and religious frictions have an adverse effect upon industry. The practice of discrimination in employment, aimed at by the act, has a strong tendency to keep alive antagonism that would be ameliorated if the restrictive practices disappeared. At this time when it is more urgent than ever before to keep the national economic machine running at full speed, the enactment of this bill is particularly important.

It has been urged by those who oppose legislation of this sort that the coercive features and the imposition of legal sanctions would tend to increase racial and religious frictions and foment disturbances that do not at present exist.

Similar objections were urged against the passage of the New York law which created the State commission against discrimination, so the answer to these objections can be found by reference to the experience of that commission during its 2 years of existence. The present bill before the Congress is substantially the same as the New York statute. The proponents of the New York law stated that they placed most reliance upon the conciliation provisions, and predicted that if the bill were enacted there would seldom be an occasion to resort to court proceedings.

Experience has justified this prediction. At a roundtable meeting on recent developments on the State law against discrimination, held under the auspices of the Commerce and Industry Association of New York, Inc., on May 15, 1947, the Honorable Julian J. Reiss, one of the commissioners of the State commission against discrimination, stated:

"Since the enactment of the law on the 1st of July 1945, 654 complaints have been filed by aggrieved persons. I am glad to be able to say that in every one of these complaints where the commission has found probable cause for believing an unlawful employment practice existed, justice has been brought to the complainant and the unlawful employment practice corrected by the first stage required by the law, which is one of conference with the respondent. In no instance has the commission been required to proceed to the second step which would consist of a hearing conducted by three commissioners and in whose deliberations the commissioner who conducted the original investigation and made the attempt at conciliation would take no part. This bespeaks the cooperation which we have had on the part of employers, labor organizations and employment agencies."

This indicates that the fears expressed by the opponents of this law were unjustified. If at any time court proceedings were necessary, it would be reasonable to expect them in the early period of the commission, and that as the efforts of the commission progressed, its necessity would diminish. The fact that neither court proceedings nor hearings before the commission were necessary testifies eloquently to the effectiveness of the conciliation provisions of the law.

During the 2 years that SAD has been in existence many employers have been educated and have learned the social and economic wisdom of the principles embodied in this legislation. There is reason, therefore, to believe the situation will continue to be ameliorated. Many illustrations of the beneficial operation of the act can be cited. We will quote one from the same statement of Commissioner Reiss:

"In one case which came before me the employer was most fearful of the dire consequences of such a move. It involved a large telephone company up-State where some 600 telephone operators were employed. Two Negro girls had applied for work with the company, had been turned down, and filed complaints.

"The investigation of all applications made since the 1st of July 1945 indicated that all Negro applicants for this type of work had been refused employment. When the employer finally admitted discriminatory practice, he told how difficult it was to recruit the necessary number of telephone operators and stated that if he should ever employ Negro girls, so many would leave, and so few white girls would consider applying for this type of work, that his situation would become desperate and that service would collapse in the community.

"Everything possible was related to him to relieve his apprehension in this regard by showing how fears in similar situations had not materialized. After all there was a law which had to be complied with. With fear and apprehension, the company took the step. Negro operators were carefully chosen to initiate

the move and it worked so successfully that several weeks later, when a shower was being held for one of the old telephone operators who was to be married, the Negro girls were invited along with the rest."

The experience of the New York SCAD in settling cases by negotiation is confirmed in the experience of the President's Temporary Fair Employment Practice Committee. In the report of the Committee to President Truman dated June 28, 1946, the Committee states:

"FEPC during its 5 years satisfactorily settled nearly 5,000 cases by peaceful negotiation, including 40 strikes caused by racial differences. During the last year of the war, FEPC held 15 public hearings and docketed a total of 3,485 cases, settling 1,191 of them. These settlements were not publicized and generally escaped attention. The contrary impression, that FEPC normally met with unyielding opposition, was created by the comparatively few difficult cases which received emphasis through public hearings and public expressions of defiance by some recalcitrant employers and unions.

"In fact, the bulk of FEPC's useful work was accomplished by the quiet persuasion of its regional representatives assigned to 15 regional and subregional offices located in major industrial centers."

The report then adds:

"The effective limits of persuasion appeared in the outstanding cases which FEPC never was able to settle. Relatively few in number, these employers and unions which successfully defied the national policy of nondiscrimination proved that persuasion must be backed by final authority if conformity with the policy is to be realized."

The experience of the President's Commission is a demonstration of the workability of the present bill. Although the legal sanctions contained in the bill will seldom need to be invoked, their presence contributes that "final authority" which the report states is necessary.

We believe that there are sufficient safeguards in this bill to relieve the fears of those who believe it might be abused. As we have already indicated, there can be no hearings before the Commission until all efforts at conciliation have failed. There will be no publicity attending the proceedings, and this we consider to be of great importance. And the impartiality of the law is evidenced by the fact that any employer who feels aggrieved has the same right as an employee to make a complaint.

Antidiscrimination legislation of this sort is an experiment, but in the restricted laboratories in which it has so far been tested it has been found workable and to possess an educational value that ultimately must bring about diminution of a practice that is contrary to American creed and American tradition.

STATEMENT OF FRANK GOLDMAN, NATIONAL PRESIDENT, B'NAI B'RITH, LOWELL, MASS.

Senator DONNELL. Mr. Goldman, will you please state your name, your address, something of your background, educationally and along the line of practical experience in matters that would bear upon the subject matter before us?

Mr. GOLDMAN. My name is Frank Goldman. I am a resident of Lowell, Mass., and I am a member of the bar; I was admitted to practice law way back in 1912.

Senator DONNELL. That is not so far back, Mr. Goldman.

Mr. GOLDMAN. I do not brag about it.

Senator ELLENDER. I am 1913.

Senator DONNELL. I started in 1907, so do not talk about it being so far back.

You are now located in Lowell?

Mr. GOLDMAN. Yes, sir; Lowell, Mass., and practicing law there. I am president of B'nai B'rith and have been associated with B'nai B'rith for a number of years. I do not want to go back to that date, if you do not mind.

B'nai B'rith is an organization which may be described as the largest Jewish service organization in the world.

Senator DONNELL. What is its membership in the United States?

Mr. GOLDMAN. In the United States and Canada, there being a small proportion in Canada, there are approximately 800,000.

Senator DONNELL. And how is that distributed over the Nation?

Mr. GOLDMAN. We have approximately—not approximately but exactly, 782 men's lodges, 462 women's chapters, and approximately 1,000 youths' groups throughout the United States.

Senator DONNELL. Do you have any members south of the Mason and Dixon line?

Mr. GOLDMAN. Yes, sir; I should say about 20 to 25 percent.

Senator DONNELL. Mr. Goldman, you are the national president of the order?

Mr. GOLDMAN. That is right.

Senator DONNELL. Does the order function through a house of delegates or convention, or what, I should ask, is its method of operation of formulating policies.

Mr. GOLDMAN. We have conventions every 8 years. We held one about a month ago here in Washington; and in between conventions, the highest authority is vested in the executive committee.

Senator DONNELL. Did the convention that was held here a month or so ago express itself by resolution on the subject matter of discrimination in employment?

Mr. GOLDMAN. I do not think it did, but in our 1944 convention the resolution was adopted, from which I quote:

This supreme lodge of B'nai B'rith, in convention assembled, expresses its appreciation of the purpose and achievement of the committee appointed by the President of the United States, and known as the Fair Employment Practices Committee, in eliminating un-American practices in the field of employment.

Senator DONNELL. Is that the latest formal expression of the order?

Mr. GOLDMAN. That is the latest formal expression and I take it that it is the present policy of B'nai B'rith.

Senator DONNELL. Has your executive committee in the meantime passed any formal resolutions since 1944, May of 1944, on this general subject?

Mr. GOLDMAN. No; it has not.

Senator DONNELL. So the resolution you have read is the latest formal resolution?

Mr. GOLDMAN. That is right.

Senator DONNELL. You are authorized to appear here by virtue of your office?

Mr. GOLDMAN. By virtue of my office. I have had many conversations with members of my executive committee and I know I express the viewpoint of our organization.

Senator DONNELL. Very well, Mr. Goldman; proceed.

Senator ELLENDER. The resolution that you have just mentioned, as I understand it, is based on the Executive order issued by the President in 1941?

Mr. GOLDMAN. That is so, Senator.

Senator ELLENDER. Of course you realize the difference between that order and the bill that is now being considered.

One is on a voluntary basis purely and simply, and this is on the basis of enforcement.

Mr. GOLDMAN. The underlying principle is the same.

Senator ELLENDER. I understand; but what do you think—do you think it would have had a definite effect on your committee had it been called to its attention that the bill that is now under consideration is not one to be handled on a voluntary basis as was the case under the Executive order, but one in which a man could be jailed or heavily fined in the event that he was found wanting?

Mr. GOLDMAN. I do not think it would have made any difference because I think what we are interested in is the principle involved and that is the question of the pursuit of happiness that is guaranteed by the Constitution, the thing that is necessarily incident to the liberty of the individual; we are interested in all people in this country living together amicably and being treated all alike and the fundamental principles declared in the Declaration of Independence, and the rights that are set forth in the Constitution.

I think our committee feels very strongly, our executive committee would feel very strongly, that the principle involved here is the thing.

SENATOR ELLENDER. And you think that prejudice can be wiped out over night?

Mr. GOLDMAN. I do not.

Senator DONNELL. But your executive committee—I want the record clear on this—your executive committee as I understand it has not actually passed on the proposition at all.

Mr. GOLDMAN. No; it has not.

Senator DONNELL. Your only formal expression, or at any rate the latest formal expression of your organization, is that which you read, May 1944, which refers, as Senator Ellender points out, to the committee appointed by the President and known as the Fair Employment Practice Committee; and that is the only expression B'nai B'rith has made upon this matter.

Mr. GOLDMAN. That is correct.

May I ask at this time to file formal ratification of my appearance and views that I express here?

Senator DONNELL. You may have that leave; yes, sir.

Senator ELLENDER. Will you tell us, if you want to do that now, how many members there are on your council?

Mr. GOLDMAN. We have 7 American districts with 3 from each district; that is 21, plus the secretary of the treasury and myself; that is 23.

Senator ELLENDER. Where are they located?

Mr. GOLDMAN. All over the country.

Senator ELLENDER. How many below the Mason and Dixon line?

Mr. GOLDMAN. Well, I should say 8 or 9 or 10.

Senator ELLENDER. All right.

In polling them I wish you would send them a copy of the bill and differentiate for them the Executive order which makes it on a voluntary basis from this enforcement and then as you poll them return for the record here the vote of each.

Mr. GOLDMAN. All right. May I ask that I be given a few more days to file that beyond what it would ordinarily take to obtain such information by telephone or telegram, so that you may have the information you desire?

Senator DONNELL. That is perfectly all right. If you will tell us at this time, Mr. Goldman, about what length of time you anticipate you will require——

Mr. GOLDMAN. By air mail, special delivery, we can do all this within the week, probably, or 10 days.

Senator DONNELL. Very well; that will be perfectly satisfactory. Proceed, Mr. Goldman.

Senator ELLENDER. Another point I would like to raise with you; are you familiar with the handling of the problem under the Executive order of the President?

Mr. GOLDMAN. Simply generally.

I have read the official report of the committee which was appointed at that time, and I have simply a general familiarity.

Senator ELLENDER. Do you know that although this Executive order was supposed to deal with giving to all races a fair share in our economy, that is as far as work is concerned, that the Commission attempted on quite a few occasions to break down well-known segregation laws that had been on the statute books of various States of the Union? I will give you an example.

Mr. GOLDMAN. I am not familiar with that.

Senator ELLENDER. As was pointed out here a few days ago, not far from here, in Maryland, there was an issue that came about among the colored and whites employed in the same factory, wherein, under the Maryland law, you had to have segregation.

Mr. GOLDMAN. Had to have it, do I understand you to say?

Senator ELLENDER. Yes; at least it was practiced; it was the custom.

At this particular plant there were two sets of toilets, built the same, one as clean as the other. The only difference was that one was labeled "for colored" and the other "for white" and upon the insistence of the colored people the wall separating both toilets was torn down. A big strike of resentment followed, and continued for about 15 days. Then, of course, later on it was settled; and at least the Commission took no further action but the War Department stepped in and put the separation back, left it as it was, and of course the strike ended.

Now, would you say that was within the purview of that Commission to proceed to strike down such segregation laws or as were in evidence in various States?

Mr. GOLDMAN. Well, as a lawyer, you know——

Senator ELLENDER. I am not asking you as a lawyer. You are not testifying as a lawyer; but I am just asking you what you think of a case of that kind?

Mr. GOLDMAN. Your question is whether I think this is in the order. I would want to study it much more carefully. I think it is just one of the practical difficulties that arise in enforcement of an order or a statute. Everything is not easy or expected to be easy.

You asked me a little while ago whether I thought that this proposed statute would eliminate prejudice and I told you very quickly that I did not think it would eliminate prejudice, but I think it would be helpful and healthy to create those ideal conditions which I think all citizens should look forward to in an advancing civilization.

Senator ELLENDER. Well, do you believe in segregation?

Mr. GOLDMAN. No; I do not.

Senator ELLENDER. You do not? Have you lived in the South?

Mr. GOLDMAN. I have not.

Senator ELLENDER. You have not? You do not know conditions down there at all?

Mr. GOLDMAN. No.

Senator ELLENDER. What is the percentage of colored population in Massachusetts? Do you know?

Mr. GOLDMAN. Well, I think it is very small. I think in Boston and Worcester and I think Springfield, that there are substantial colored populations.

Senator ELLENDER. But throughout your State it is——

Mr. GOLDMAN. I think it is pretty small.

Senator ELLENDER. How different do you think the conditions would be in a State where, as I pointed out awhile ago, the population is 50-50 or 40-60?

Senator DONNELLY. Forty white and sixty colored?

Senator ELLENDER. No, no; 60 white, 40 colored.

Mr. GOLDMAN. I think it would be quite different, probably, but I do not admit it should be so.

Senator ELLENDER. You do not admit that there should be segregation?

Mr. GOLDMAN. That is right.

Senator ELLENDER. In other words, you feel that the people, irrespective of their races should commingle, should be permitted to go to the same theaters, and the same places of amusement, swim in the same pools, and things of that kind?

Mr. GOLDMAN. I certainly do. I think that it is the practice in my State. I think that there is no distinction.

Senator ELLENDER. I know it is your practice. You have so few, there is no cause for worry. In some cities in Massachusetts, I presume, there are no colored at all.

Mr. GOLDMAN. Well, I could not say as to that, but I might say that it is pretty nearly so.

Senator ELLENDER. Do you have any intermarriage between the whites and blacks?

Mr. GOLDMAN. That I do not know.

Senator ELLENDER. You know that the law in Massachusetts permits it?

Mr. GOLDMAN. Yes; and I think the law should permit it. You are asking me my personal belief. I do not think of it as a matter of law. I think of it as a matter of personal freedom of individuals to do as they please within certain limits, of course, and I think the matter of marriage is not one of those limits.

Senator ELLENDER. Do you not think, Mr. Goldman, that if the South had not practiced segregation, as it did, that in the space of 30 or 40 years with all of the white and Negro children mixing together at play and everywhere else that the ultimate thing would be social equality and intermarriage?

Mr. GOLDMAN. Well, so far as social equality is concerned, I would say, yes; so far as intermarriage is concerned I do not think there would be a great amount of it.

Senator ELLENDER. But there would be some?

Mr. GOLDMAN. Probably.

Senator ELLENDER. Quite a bit.

Mr. GOLDMAN. We are getting into the realm of prophecy now and I could not predict the exact results. My own judgment would be that there would be very little.

Senator ELLENDER. I try to believe that.

Mr. GOLDMAN. I wish you could, too, Senator.

Senator ELLENDER. Yes; because you northern people do not know our conditions in the South and are trying to impose on us something that is going to do more harm to the people you are trying to help than you think.

Mr. GOLDMAN. I think, Senator, the principal parts of this bill are based on moral suasion, negotiation, and——

Senator DONNELL. Do not say "moral"; that is legal; that is compulsion.

Mr. GOLDMAN. The matter of persuasion on the part of the Commission could be treated as compulsory; yes.

Senator ELLENDER. Absolutely.

Mr. GOLDMAN. But the result is not compulsion, necessarily.

Senator ELLENDER. Mr. Goldman, if this bill would stop with that, I would not be here opposing it, but it is one of the steps needed to break down segregation in the South, which we have had and which we think is necessary so as to prevent social equality among the colored and the white. As I pointed out, social equality among the white and colored, to my way of thinking, will lead to an amalgamation of our races. In the course of time the population in the United States as a whole will be a mongrel race and with that our civilization is going to be that of Asia, like that of South America over here not far from us, as in Brazil, or like it is in Egypt and in India, and I do not want that to occur.

Mr. GOLDMAN. Well, Senator, the result that you envision is not a result that would be the wish of the people involved, and if that is the kind of evolution they want to have, why have they not a right to have it?

Senator ELLENDER. I am glad to hear you talk about that. Why do you cast out a Jew who marries a Christian or anybody else?

Mr. GOLDMAN. You are talking about me, personally?

Senator ELLENDER. No; I am talking about Jews.

Mr. GOLDMAN. I do not think that is so. I think there are Jews that feel that way.

Senator ELLENDER. What percentage of the Jews marry non-Jews or people not of that faith; do you know?

Mr. GOLDMAN. Well, you recollect a little while ago you asked a question as to whether I objected to intermarriage of whites and Negroes and I said "No"; but they have a right——

Senator ELLENDER. They have a right in 19 States, not all over the country.

Mr. GOLDMAN. I was not thinking of statutory right or legal right. I was thinking of the human right.

Senator ELLENDER. Well, there are about 5,000,000 Jews in this country at present, I understand. That is what Rabbi Wise said yesterday.

Mr. GOLDMAN. Five or six million.

Senator ELLENDER. Five or six million out of eleven million in the world. Over half are in this country. Would you be able to state

what percentage of Jews in this country have married with either Christians or with people of any other religion?

Mr. GOLDMAN. I do not think there are statistics available, but I should say it was on the increase.

Senator ELLENDER. But I know, of my own personal knowledge, that a Jew marrying a Christian or any other person outside of his own faith is an outcast insofar as the orthodox Jews are concerned.

Mr. GOLDMAN. I could not say that has been my observation.

I am, I think, quite familiar with our people. I would not say there are not specific instances such as you say, and I think a lot of these prejudices are prejudices which came over with older people and which were very natural with their limited amount of education; but I think with the opportunities, the educational opportunities in this country, the mixing together of people here, that as a majority matter, a very different attitude has been created.

Senator ELLENDER. But you do grant that it must be founded on some kind of prejudice that has created such a condition whereby Jews do not intermarry with others than their own faith as a rule?

Mr. GOLDMAN. Well, if you refer to the prejudice which causes Jews to live in ghettos and to be separated from others so they relied more or less upon one another and because of the conditions under which they lived in some foreign countries—

Senator ELLENDER. You do not have those conditions in this country, I hope.

Mr. GOLDMAN. No.

Senator ELLENDER. Yet the prejudice still prevails here.

Mr. GOLDMAN. If by "prevail" you mean that is the majority view, I should question it. I should not want to deny it completely, but I should question it. I think that my people, generally speaking, are a liberal people.

Senator DONNELL. Proceed with your testimony, Mr. Goldman.

Mr. GOLDMAN. B'nai B'rith was founded 104 years ago for the purpose of uniting all Jews in serving the highest interests of our country, our people, and of all humanity.

The proposed National Act Against Discrimination in Employment deals with a matter which falls definitely within the purview of our interest as the oldest and largest Jewish service organization in the United States. One of the important services rendered by B'nai B'rith is that of vocational guidance for our youth, particularly returned veterans, and in this work we are constantly encountering restrictive barriers which deprive our young men and women of opportunity for full exercise of their talents.

Although I speak here for B'nai B'rith, I know as all of you I am sure are aware, that Jews are not the only victims of the vicious practice of selection of applicants upon the basis of ancestry instead of the individual merit of the applicant.

Senator ELLENDER. Mr. Goldman, have you any particular instances to give the committee whereby Jews have been refused employment, because of the fact that they are Jews, discrimination in manufacturing or farming or enterprises of that kind?

Mr. GOLDMAN. I had not thought of—

Senator ELLENDER. Or is it in colleges, as was indicated here on two or three occasions, that the quota system was put into effect so as to

limit the number of colored or the number of Catholics, or the number of Jews or the number of any other denomination to private as well as public institutions?

Mr. GOLDMAN. We have numerous instances of it in our files and if it is of any importance to you, I would be glad to furnish it.

Senator ELLENDER. I think it is. I have asked for it on many occasions and as I have indicated here before the committee and from my own personal observation, I believe a lot of it is exaggerated.

Mr. GOLDMAN. I had not thought it would be necessary to document that kind of statement. The report of the President's Committee on Fair Employment is replete with statements which so indicate, as a result of a pretty close contact with conditions by that Committee.

Senator ELLENDER. A statement such as you are making here is very appealing. When you talk of our Constitution and its provisions, of course, you can make a wonderful presentation, and all of us are for that; but when one must be specific about all of these cases that you speak of, I would judge that there may be a good reason for an employer or a college or some institution's maintaining certain rules.

For instance, we have a lot of schools throughout the country today, where, should no quotas be established, it is probable that one class of our citizenry who are able financially to attend would get all the first places of enrollment and we would have many unable to be admitted.

What information I would like to find out from you is whether you have any specific cases where there has been the discrimination that you speak of in regard to employment in a useful trade, as I said, in manufacturing or farming or occupations of that kind. That is what I would like to get before the committee.

Mr. GOLDMAN. We will be very glad to furnish you the information so far as any department of B'nai B'rith has it.

It seems to me it is a matter which is so plain and so clear. It is one of those facts which I think a court would take judicial notice of because it is such a well-known fact. In addition to that—

Senator ELLENDER. You mean a well-known fact that there is discrimination?

Mr. GOLDMAN. That is right.

If you will pardon me, I would say that the final report of the Fair Employment Practice Committee is replete with statements that so indicate. There is an official Government group which has had close association, presumably, and which indicates beyond any question that it exists.

Senator DONNELL. At this point I will ask the reporter, and if it is agreeable to Senator Ellender, that there be incorporated in the record a copy of each of the following documents:

Executive order issued on June 25, 1941, being No. 8802, appearing in the Federal Register dated June 27, 1941, entitled, "Reaffirming Policy of Full Participation in the Defense Program by All Persons Regardless of Race, Creed, Color, and National Origin and Directing Certain Action in Furtherance of Said Policy."

Second, Executive Order No. 9340, set forth in Federal Register of May 29, 1943, and being an amendment of Order No. 8802, by establishing a new Committee on Fair Employment Practices and defining its powers and duties; and finally, a copy of Executive Order No. 9864 appearing in the Federal Register of December 22, 1945, which last-mentioned order is dated December 18, 1945.

(The pertinent parts of the Federal Register are as follows:)

EXECUTIVE ORDER 8802

REAFFIRMING POLICY OF FULL PARTICIPATION IN THE DEFENSE PROGRAM BY ALL PERSONS, REGARDLESS OF RACE, CREED, COLOR, OR NATIONAL ORIGIN, AND DIRECTING CERTAIN ACTION IN FURTHERANCE OF SAID POLICY

Whereas it is the policy of the United States to encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the Nation can be defended successfully only with the help and support of all groups within its borders; and

Whereas there is evidence that available and needed workers have been barred from employment in industries engaged in defense production solely because of considerations of race, creed, color, or national origin, to the detriment of workers' morale and of national unity;

Now, therefore, by virtue of the authority vested in me by the Constitution and the statutes, and as a prerequisite to the successful conduct of our national defense production effort, I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin, and I do hereby declare that it is the duty of employers and of labor organizations, in furtherance of said policy and of this order, to provide for the full and equitable participation of all workers in defense industries, without discrimination because of race, creed, color, or national origin;

And it is hereby ordered as follows:

1. All departments and agencies of the Government of the United States concerned with vocational and training programs for defense production shall take special measures appropriate to assure that such programs are administered without discrimination because of race, creed, color, or national origin;

2. All contracting agencies of the Government of the United States shall include in all defense contracts hereafter negotiated by them a provision obligating the contractor not to discriminate against any worker because of race, creed, color, or national origin;

3. There is established in the Office of Production Management a Committee on Fair Employment Practice, which shall consist of a chairman and four other members to be appointed by the President. The Chairman and members of the Committee shall serve as such without compensation but shall be entitled to actual and necessary transportation, subsistence and other expenses incidental to performance of their duties. The Committee shall receive and investigate complaints of discrimination in violation of the provisions of this order and shall take appropriate steps to redress grievances which it finds to be valid. The Committee shall also recommend to the several departments and agencies of the Government of the United States and to the President all measures which may be deemed by it necessary or proper to effectuate the provisions of this order.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, June 25, 1941.

(No. 8802)

(F. R. Doc. 41-4544; Filed, June 26, 1941; 12: 17 p. m.)

EXECUTIVE ORDER 8846

FURTHER AMENDING EXECUTIVE ORDER NO. 8802 BY ESTABLISHING A NEW COMMITTEE ON FAIR EMPLOYMENT PRACTICE AND DEFINING ITS POWERS AND DUTIES

In order to establish a new Committee on Fair Employment Practice, to promote the fullest utilization of all available manpower, and to eliminate discriminatory employment practices, Executive Order No. 8802 of June 25, 1941,¹ as amended by Executive Order No. 8823 of July 18, 1941,² is hereby further amended to read as follows:

¹ 6 F. R. 3109.

² 6 F. R. 3577.

"Whereas the successful prosecution of the war demands the maximum employment of all available workers regardless of race, creed, color, or national origin; and

"Whereas it is the policy of the United States to encourage full participation in the war effort by all persons in the United States regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the nation can be defended successfully only with the help and support of all groups within its borders; and

"Whereas there is evidence that available and needed workers have been barred from employment in industries engaged in war production solely by reason of their race, creed, color, or national origin, to the detriment of the prosecution of the war, the workers' morale, and national unity:

"Now, therefore, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States and Commander in Chief of the Army and Navy, I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of any person in war industries or in Government by reason of race, creed, color, or national origin, and I do hereby declare that it is the duty of all employers, including the several Federal departments and agencies, and all labor organizations, in furtherance of this policy and of this Order, to eliminate discrimination in regard to hire, tenure, terms or conditions of employment, or union membership because of race, creed, color, or national origin.

"It is hereby ordered as follows:

"1. All contracting agencies of the Government of the United States shall include in all contracts hereafter negotiated or renegotiated by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin and requiring him to include a similar provision in all subcontracts.

"2. All departments and agencies of the Government of the United States concerned with vocational and training programs for war production shall take all measures appropriate to assure that such programs are administered without discrimination because of race, creed, color, or national origin.

"3. There is hereby established in the Office for Emergency Management of the Executive Office of the President a Committee on Fair Employment Practice, hereinafter referred to as the Committee, which shall consist of a Chairman and not more than six other members to be appointed by the President. The Chairman shall receive such salary as shall be fixed by the President not exceeding \$10,000 per year. The other members of the Committee shall receive necessary travelling expenses and, unless their compensation is otherwise prescribed by the President, a per diem allowance not exceeding twenty-five dollars per day and subsistence expenses on such days as they are actually engaged in the performance of duties pursuant to this Order.

"4. The Committee shall formulate policies to achieve the purposes of this Order and shall make recommendations to the various Federal departments and agencies and to the President which it deems necessary and proper to make effective the provisions of this Order. The Committee shall also recommend to the Chairman of the War Manpower Commission appropriate measures for bringing about the full utilization and training of manpower in and for war production without discrimination because of race, creed, color, or national origin.

"5. The Committee shall receive and investigate complaints of discrimination forbidden by this Order. It may conduct hearings, make findings of fact, and take appropriate steps to obtain elimination of such discrimination.

"6. Upon the appointment of the Committee and the designation of its Chairman, the Fair Employment Practice Committee established by Executive Order No. 8802 of June 25, 1941, hereinafter referred to as the old Committee, shall cease to exist. All records and property of the old Committee and such unexpended balances of allocations or other funds available for its use as the Director of the Bureau of the Budget shall determine shall be transferred to the Committee. The Committee shall assume jurisdiction over all complaints and matters pending before the old Committee and shall conduct such investigations and hearings as may be necessary in the performance of its duties under this Order.

"7. Within the limits of the funds which may be made available for that purpose, the Chairman shall appoint and fix the compensation of such personnel and make provision for such supplies, facilities, and services as may be necessary to carry out this Order. The Committee may utilize the services and facilities of other Federal departments and agencies and such voluntary and uncompensated

services as may from time to time be needed. The Committee may accept the services of State and local authorities and officials, and may perform the functions and duties and exercise the powers conferred upon it by this Order through such officials and agencies and in such manner as it may determine.

"8. The Committee shall have the power to promulgate such rules and regulations as may be appropriate or necessary to carry out the provisions of this Order.

"9. The provisions of any other pertinent Executive order inconsistent with this Order are hereby superseded."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, May 27, 1943.

(F. R. Doc. 43-8051; Filed, May 28, 1943; 12:00 m.)

EXECUTIVE ORDER 9604

CONTINUING THE WORK OF THE FAIR EMPLOYMENT PRACTICE COMMITTEE

By virtue of the authority vested in me by the Constitution and statutes, it is hereby ordered as follows:

The duties and responsibilities imposed upon the Committee on Fair Employment Practice by Executive Order 8802, dated June 25, 1941, as amended by Executive Order 8823 of July 18, 1941, and by Executive Order 9346 of May 27, 1943, shall be continued thereunder for the period and subject to the conditions stated in the National War Agencies Appropriation Act, 1940, (Public Law 150, 70th Congress, 1st Session, approved July 17, 1945).

As a part of its duties the Committee shall investigate, make findings and recommendations, and report to the President, with respect to discrimination in industries engaged in work contributing to the production of military supplies or to the effective transition to a peacetime economy.

HARRY S. TRUMAN.

THE WHITE HOUSE, December 18, 1945.

Senator DONNEILL. I would also like that the record should show this. I am sure that Mr. Herzberg is still present here and I would like while he is present to state into the record that under section 8, under the heading of judicial review, it does not state that the Commission must or shall petition a circuit court of appeals for an enforcement of its order but recites that the Commission shall have power to petition any circuit court of appeals of the United States.

I think in fairness to Mr. Herzberg that should be in the record; and furthermore that there is, however, an additional provision in section 8 of the bill from which I have quoted, subsection (g) of the same section, to the effect that—

any person aggrieved by a final order of the Commission may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside.

Let the record further show that after provision for the filing in the court of a transcript of the entire record in the proceeding certified by the Commission, subsection (g) proceeds as follows:

Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petition or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

You will pardon me for interrupting your testimony. I think it would be well to get that into the record.

Mr. GOLDMAN. I am glad to be here in Washington and the longer I stay the better I like it.

Senator DONNELL. Fine.

Senator ELLENDER, do you have some further questions?

Senator ELLENDER. Yes.

Mr. Goldman, you have referred to the report of the FEPC that was created under the Executive order. Do you know how many cases were considered by the board from 1941, when it was created, to the time when it was dismembered?

Mr. GOLDMAN. I do not; I should guess that when the Board—

Senator ELLENDER. I was trying to look for the figures myself when I asked that you give me the copy, but it is my recollection that there were comparatively very few violations in the South, that the principal violations occurred in the North. I anticipate that someone will be called to testify as to the Commission, Senator Donnell, in the future, and somebody will also testify from the former administration of this FEPC. I am not sure whether there are such persons on the list but it would be very appropriate that there should be, just to show a comparison of the number of violations in various sections of the country. I believe the report will prove that they were more flagrant in States like New York and New Jersey where there are such laws, maybe necessarily, than in the States that you are trying to impose a statute on.

Mr. GOLDMAN. I think that would be natural because of the fact that there would be more industry in the North than in the South.

Senator DONNELL. At this point I call attention to the fact that in Executive Order 8802 dated June 25, 1941, signed by President Roosevelt, there is a recital as follows:

Whereas there is evidence that available and needed workers have been barred from employment in industries engaged in defense production solely because of considerations of race, creed, color, or national origin, to the detriment of workers' morale and of national unity.

Also, in 9340 which amends Executive Order No. 8802, is a further recital as follows:

Whereas there is evidence that available and needed workers have been barred from employment in industries engaged in war production solely by reason of their race, creed, color, or national origin, to the detriment of the prosecution of the war, the workers' morale, and national unity.

Proceed, Mr. Goldman.

Mr. GOLDMAN. May I continue with the statement I was making?

Many others suffer the pangs of job rejections because of their religion, or their race, or their nationality background.

We should not have to be reminded in America at this late date that such ideas are a counterpart of the discredited Nazi theories of race superiority, and, it should hardly be necessary to document a statement that economic discrimination against Jews and others does exist and is widely practiced in many fields of employment.

The final report of the Fair Employment Practices Commission contains ample statistical and factual material along this line. In addition, the want-ad columns in newspapers throughout the country—except those cooperative few which have denied the use of their

columns for such purposes—contain daily evidence of openly expressed prejudice.

Senator DONNELL. Pardon me, Mr. Goldman, I am interested to know what you mean by the want-ad columns in the country; do you mean advertisements for white labor or anything that excludes Jews or colored people?

Mr. GOLDMAN. "Protestants preferred" and things of that kind appear.

Senator DONNELL. That is what you refer to?

Mr. GOLDMAN. Yes, sir.

Senator DONNELL. Do you find that very widespread in want-ad columns.

Mr. GOLDMAN. I would say that it exists. It is a substantial thing. I would not know that it is widespread but it does appear and I have seen it in newspapers.

Senator ELLENDER. I imagine that was prevalent in the country years ago. There was witchcraft in the country years ago too, if you remember. But through education all such superstition simply evaporated.

Mr. GOLDMAN. I think, Senator, that this statute would be a part of that education.

Senator ELLENDER. You think so, but you do not have to apply it in a legal way, do you?

Mr. GOLDMAN. Principles put in writing serve a fine and important purpose.

Senator ELLENDER. Not when you try to do it by force, sir.

I do not think you can change minds by force.

Mr. GOLDMAN. But I think you are going to help them change their minds.

Senator ELLENDER. That is where we disagree. You cannot do that by force. You cannot weed out prejudice by force. Education will weed it out. And I claim that education in the South has gone far toward removing many of the prejudices that formerly existed in our own Southland; and it has also done the same thing in various States of the North, particularly Massachusetts.

Mr. GOLDMAN. Well, Senator, you know when you talk about force it depends upon the kind of force that you have reference to. As a lawyer, you know that many, many things are straightened out where you get people who are opposed to one another to sit down and talk things over. You can frequently reach the desired conclusion.

Senator ELLENDER. Of course you can do it by a gestapo method, holding a pistol in your hand—"if you don't, we are going to send you to jail." You can do it all right, but it will not be done on a basis that will be conducive to the proper relationships that you are trying to establish, sir.

Mr. GOLDMAN. Well, I think the proper relationship ultimately is the ideal picture and I think that the history of civilization has been one where we are ever striving to attain it and you have to take one step forward at a time, sometimes it is a long stride but at the same time it is a helpful and a healthy one.

Senator DONNELL. My attention has been called to the fact that Senator Russell, of Georgia, has joined us at the table. We are

very happy to have you, Senator, and extend to you the opportunity to ask any questions that you may desire of the witnesses.

Senator RUSSELL. Thank you. I may have a few questions.

Senator DONNELL. Mr. Goldman, I want to return again to your statement in regard to want-ad columns in newspapers. You say, in your statement, that throughout the country except those cooperative few which have denied the use of their columns for such purposes, contain daily evidence of openly expressed prejudice. You say, "openly expressed prejudice."

As I say, I am very much interested in that and I am wondering whether or not you have any statistical information as to how widely statements of that kind appear in the want-ad columns?

Mr. GOLDMAN. I assume that it would be available, perhaps not in its entirety, but I would be very glad to file a memorandum with you in that connection.

Senator DONNELL. Will you do that?

Mr. GOLDMAN. I will have my staff do that.

Senator DONNELL. We would be very happy to have you do that.

I would like to state in that connection, and I would like to ask if you concur in this—it would seem to me, for instance, in a Protestant family where the members of the family are going to a Protestant church, I can see where it is quite natural they would want a Protestant maid or cook, but I do not think that is necessarily indicative of a discriminatory attitude on the part of the family.

I think the same thing would be true in a Catholic family. Perhaps, for some reason, the maid or cook would be expected to take the children to school or for courses of instruction, religious or otherwise, and the same thing would be true in the case of the Jewish family.

I do not think it would be indicative, as I am wondering if you do, necessarily of hatred or improper racial feelings merely because a Protestant family would like a Protestant helper in the home or that the Catholic family would like a Catholic helper in the home, or that a Jewish home would like a Jewish helper.

Do you regard that as indicative, necessarily, of any improper feelings?

Mr. GOLDMAN. No, sir; and I think——

Senator DONNELL. Do you?

Mr. GOLDMAN. No, sir; I do not think it is indicative of that necessarily, and I think that domestic employment is excluded under the provisions of the proposed bill, if I remember correctly.

Senator DONNELL. I was raising the question about the illustration you use here, about the want-ad where they state "Protestants preferred," for illustration, whether that is naturally indicative of any hostility on the part of the Protestants toward other people or where a like statement should appear that a Catholic is preferred, whether that would indicate any hostility on the part of the Catholic people to the Protestants?

Mr. GOLDMAN. We are referring to other instances than that of domestic employment.

Senator DONNELL. You are going to furnish me illustrations of the point you make, and will you give us, Mr. Goldman, as far as possible, some indication of the extent to which advertising of that kind

prevails over the country and how widely distributed and in what localities?

Will you do that?

Mr. GOLDMAN. I shall be glad to have a statement prepared and furnish it.

(The statement referred to was filed with the committee.)

Senator RUSSELL. During the existence of the old FEPC Committee that was created by Executive order they made quite a point of undertaking to prevent the newspapers from carrying advertisements of that nature. It mentions any preference whatever, either on the part of the employer or the person seeking employment or the employer, anything about race, creed, or religion. I was amused to find in one of the want-ads during the controversy over the other permanent bill, to see an advertisement in the local paper here where a Negro maid had put in a little ad, putting in the hours, and so forth, but she wound up by saying she only wished to be employed by a Protestant family. Of course, if they had carried out the idea, even employees could not use the columns of the press to express preference as to where they would work.

They undertook to forbid any mention whatever of any race or preference of that type.

Senator DONNELL. Thank you for that information, Senator.

Proceed, Mr. Goldman.

Mr. GOLDMAN. I do not believe that even the opponents of this legislation will deny that the condition exists. It is a practical reality, one we must face. Nevertheless, its mere existence is no justification for its continuance or for the contention that Congress can do nothing or should do nothing about it.

Let us look at that argument for a moment. Under the Constitution it is clearly within the power of the Congress, and in fact, among its specified duties, to act in furtherance of any of the purposes for which our Government was formed, in this instance "to promote the general welfare" and "to secure the blessings of liberty to ourselves and our posterity."

The right to the pursuit of happiness by competing for employment on an equal basis with others is an essential element of the American principles of liberty and equality of opportunity. Some applicants for a job have better qualifications in the way of experience, or training, than others, and an employer who does not take these into account would be short-sighted; but, on the other hand, to disqualify a whole category of applicants, and blacklist them from the start as undesirable, without regard to their individual capabilities, is not only equally short-sighted, but highly un-American.

Senator DONNELL. Mr. Goldman, that bell indicates it is 15 minutes until the Senate convenes. This is not said to hasten your testimony. You will be given ample opportunity to complete it. The Senate convenes at 11 o'clock and promptly at 11 o'clock this committee will be in recess for only a few minutes pending the granting of authority to continue, which we hope to get.

Mr. GOLDMAN. I do not want to impose on the committee. The rest of what I want to say is contained in the printed statement.

Senator DONNELL. We want you to feel perfectly free to take your time. I just wanted you to understand why we would recess at 11. I think it is much more satisfactory to hear the witness ordinarily and I prefer to have you proceed.

Mr. GOLDMAN. There is nothing revolutionary or of wild-eyed radicalism about the bill before you, although you will hear many of its opponents so characterize it and probably deplore it as an evidence of Government interference with the rights of free enterprise. Actually, it is merely another application of one of the long-established principles of our Government: namely, to safeguard by specific legislation one of the fundamental rights of all citizens. This principle has been frequently applied over our history to the protection of political and civil rights and what is being sought now is merely what has been found by experience to be necessary; that is, protective legislation for the equality of economic opportunity. In other words, having in mind the constitutional provision, it is an endeavor to make secure one of the blessings of liberty.

The Senators who are sponsoring S. 984 have drawn a temperate measure. The elements of education and moral suasion rather than the punitive are predominant in its enforcement features, and the decisions of the proposed Commission are appealable to the courts.

Senator DONNELL. Mr. Goldman, I am interested in your statement along that line that the elements of education and moral suasion rather than the punitive are predominant in its enforcement features.

I appreciate the frequent reference, somewhat detailed, in the bill to the matter of conciliation and moral suasion—I do not recall moral suasion, that particular term—but the general idea that you enunciate I think certainly exists in the bill, that is to say very clearly that the effort to cause voluntary compliance stands out. But does not the bill envisage in your judgment ultimately that the proceedings of the Commission shall terminate in an order to cease and desist and does it not contemplate, even though there be no mandatory requirement on the part of the Commission to petition the circuit court of appeals, does it not contemplate that the ultimate enforcement of the order of the Commission shall be procured in event of failure of people to follow the order?

Mr. GOLDMAN. I think that is so, but I think I have read something on the subject and I heard the statement made here this morning by the witness who preceded me that the experience in the States which have similar statutes has been that you had never even got to a public hearing before the full commission, that the intervention of one of the commissioners has resulted in a disposition of the matter satisfactorily to the parties.

Senator DONNELL. This bill does, however, in section 8, which is entitled "Judicial Review," and prescribes, among other things, in section 8 (g) with respect to a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

Now, if an order is appealed, waiving for the moment the question of whether there is any mandatory requirement that recourse to the courts shall be had, if the court shall be appealed to, does not the power of the court to decree imply the correlative power to enforce that decree by contempt proceedings in the event of violation of the decree?

Mr. GOLDMAN. Of course, but it is power that will not have to be exercised frequently, and what I was attempting to point out is that in the States where they have had statutes, it has never reached—I

do no want to say "never"—although I think that statement may be justified—and a member of my staff here says never—reached a stage where public hearings were necessary before the commissioners.

If you do not reach that stage, it is much more unlikely you will reach the stage where the thing will get into court under the provisions of the bill. I mean that is why I am emphasizing that what I think is the predominant feature of this bill, and that is moral suasion on the parties.

Senator DONNELL. You think as a practical policy there would be no difficulty in that connection to any appreciable extent.

Mr. GOLDMAN. That is in a material number of instances.

The authors of this measure have approached the problem of discrimination with an eye to protecting the rights of all parties by ample and definite provisions with respect to procedure, judicial review, and enforcement.

I think it is a point also of the highest importance, and warranting the earnest thought of this committee in making its recommendation, that this is a bipartisan bill, not so much because of the political considerations involved—although the national conventions of both major parties have endorsed this legislation in principle—but because the recognition of the need for it is so plain that eight Members of the Senate, four on each side of the aisle, agree upon it, lend their names to it, and pledge their wholehearted efforts to its passage.

Gentlemen, this bill is an honest effort to deal with an evil which cries out for remedy. Experience in New York, in New Jersey, and in my own State of Massachusetts has shown that in those three States, which already have antidiscrimination laws in operation, there is a definite decline in discrimination in employment practices.

Senator ELLENDER. Mr. Goldman, does the State of Massachusetts provide for the ultimate court enforcement of the orders of its commission? If you do not happen to recall that, could you furnish us a copy of the Massachusetts law for our files?

Mr. GOLDMAN. I will do that.

Senator ELLENDER. We will appreciate that.

Mr. GOLDMAN. I do not want to venture an opinion on that, but I will furnish it.

Both prejudice and bigotry are not confined within State boundaries. This is a national problem which calls for treatment on both the State and national levels. I do not for a moment contend that this bill is a cure-all, or that discrimination will cease upon its enactment or prejudice be eradicated. But if the Federal Government writes into the body of its statutes its own expression of abhorrence of these evil practices, it will also encourage and hasten State action. Moreover, a national commission will be of immense aid to State commissions in setting standards of procedure and coordinating policies, in addition to acting administratively in its own sphere.

The need for Congress to enact such a law is two-fold, economic and moral. First, the practices complained of deprive our national economy of the productive value of the work of individuals who are denied an opportunity to make full use of their education, training, and talents. These are vitally needed to carry out the Nation's program of high production and full employment. Secondly, we must make effective in everyday life at home the principles of democracy which we preach abroad.

I hope this committee and the Members of both the Senate and House of Representatives will pay no heed to the voices crying: "Do nothing about this situation." In every great struggle for progress and justice in the whole history of civilization there are always such voices, always the advocates of a "do nothing" policy.

Rather I hope that you will recall the words of George Washington that this Government will "give to bigotry no sanction." For today, under economic conditions which could not have been foreseen in his time, the mere absence from the fabric of our law of any expression condemning unfair or discriminatory employment practices might be construed as giving them unwritten sanction.

Senator DONNELL. Senator Russell.

Senator RUSSELL. I may say that I do not think you would get much disagreement on the general theory of your statement. Almost everyone is opposed to discrimination. The method of eliminating the discrimination or what constitutes it is what causes trouble here.

Are you familiar with our FEPC Commission created by President Roosevelt by Executive order?

Mr. GOLDMAN. Generally speaking; I would not want to be particularly cross-examined about it. I have read their report, at least in substantial part.

Senator RUSSELL. You are not familiar with the details of cases that they decided as to what does constitute discrimination?

Mr. GOLDMAN. I would not say that I am.

Senator RUSSELL. Are you familiar with the Seaman-Junior case?

Mr. GOLDMAN. No, sir.

Senator RUSSELL. Let me outline that case to you. There were two seamen—one Negro, one white; they had always, under their contracts, agreed to the principle of segregation aboard ships. The old FEPC issued an order that it was discrimination if they had sleeping quarters and separate eating quarters for the white and the Negro sailors; and they held that was an unfair employment practice and ordered the union to desist from it. The head of the union protested very vigorously. He stated that that system had obtained in the union for 40 years and no members of the union were complaining about it; that the facilities were exactly alike for the white sailors and the Negro sailors. But the Commission nevertheless held that was an unfair employment practice. Do you agree with that decision?

Mr. GOLDMAN. Well, I should think that the decision was a proper one, and at the same time I want to say that I appreciate there are practical difficulties which have to be ironed out, but I think this statute is a practical way in which to approach a solution, an ultimate solution that will cause a much more contented community than we have today.

Senator RUSSELL. The difficulty is, Mr. Goldman, that people that do not believe in economic discrimination are still opposed to creation of an organization that will undertake to revolutionize the social customs of a considerable section of the country.

Some or a great deal of the opposition to legislation of this character is based on the belief that is generated by these decisions that the purpose of the bill is calculated and designed, I might say, to enforce the commingling of races on the basis of absolute social equality and do away with all forms of segregation as it is to bring equality of economic opportunity.

Mr. GOLDMAN. I have no doubt, Senator, that you will find that as testimony appears before you, it will cover a pretty wide range; but I have endeavored to confine myself to those things which relate to employment.

You will get into a much larger field. The question of marriage was posed to me this morning, which I take it has very little relationship to the question before us.

Senator RUSSELL. I do not know that the question of marriage would be involved in it, but I know from experience what some of the other questions are that will be involved. It is not just the question of equal pay for equal work. I believe every decent American believes in that, but using a law of this kind to enforce a Federal power to change customs and habits of a considerable section of the country is the chief objection to the bill.

You say you would regard that as a proper order for the Commission to enter?

Mr. GOLDMAN. Yes.

Senator RUSSELL. All right.

Senator DONNELL. Senator Murray, we are glad to have you here this morning.

Senator MURRAY. Thank you, Mr. Chairman.

Senator DONNELL. Do you wish to interrogate the witness at this time?

Senator MURRAY. No; I have been so tied up in other legislation around here that the last few days I have been unable to get over here, but I am glad to be here this morning.

Senator DONNELL. Senator Murray is one of the sponsors of this bill.

Mr. Goldman, do you have anything further to say?

Mr. GOLDMAN. No, sir.

Senator DONNELL. Thank you.

We are grateful for your coming and testifying and giving us the benefit of your testimony.

Senator DONNELL. Our next witness is Mrs. Katharine L. Marshall, representing the Women's International League for Peace and Freedom, Washington, D. C. That is an international organization?

(Mr. Goldman submitted the following brief:)

TESTIMONY OF FRANK GOLDMAN, NATIONAL PRESIDENT OF B'NAI B'RITH, BEFORE SUBCOMMITTEE OF SENATE LABOR AND PUBLIC WELFARE COMMITTEE: CONSIDERING S. 084, JUNE 13, 1947

Mr. Chairman and Senators, my name is Frank Goldman. My home is in Lowell, Mass.

I am president of the Supreme Lodge of B'naï B'rith and appear before this committee on this bill as the authorized spokesman of our order, which has a membership of more than 300,000 in its 782 men's lodges, 452 women's chapters, and 1,000 youth groups throughout the United States.

Our national convention passed the following resolution in May 1944:

"This Supreme Lodge of B'naï B'rith, in convention assembled, expresses its appreciation of the purpose and achievement of the committee appointed by the President of the United States, and known as the Fair Employment Practice Committee, in eliminating un-American practices in the field of employment."

B'naï B'rith was founded 104 years ago for the purpose of uniting all Jews in serving the highest interests of our country, our people, and of all humanity.

The proposed National Act Against Discrimination in Employment deals with a matter which falls definitely within the purview of our interest as the oldest and largest Jewish service organization in the United States. One of the important

services rendered by B'nai B'rith is that of vocational guidance for our youth, particularly returned veterans, and in this work we are constantly encountering restrictive barriers which deprive our young men and women of opportunity for full exercise of their talents.

Although I speak here for B'nai B'rith, I know, as all of you I am sure are aware, that Jews are not the only victims of the vicious practice of selection of applicants upon the basis of ancestry instead of the individual merit of the applicant. Many others suffer the pangs of job rejections because of their religion, or their race, or their nationality background.

We should not have to be reminded in America at this late date that such ideas are a counterpart of the discredited Nazi theories of race superiority, and it should hardly be necessary to document a statement that economic discrimination against Jews and others does exist and is widely practiced in many fields of employment.

The final report of the Fair Employment Practices Commission contains ample statistical and factual material along this line. In addition, the want-ad columns in newspapers throughout the country—except those cooperative few which have denied the use of their columns for such purposes—contain daily evidence of openly expressed prejudices.

I do not believe that even the opponents of this legislation will deny that the condition exists. It is a practical reality; one we must face. Nevertheless, its mere existence is no justification for its continuance nor for the contention that Congress can do nothing or should do nothing about it.

Let us look at that argument for a moment. Under the Constitution it is clearly within the power of the Congress, and in fact, among its specified duties, to act in furtherance of any of the purposes for which our Government was formed; in this instance: "to promote the general welfare" and "to secure the blessings of liberty to ourselves and to our posterity."

The right to the pursuit of happiness by competing for employment on an equal basis with others is an essential element of the American principles of liberty and equality of opportunity. Some applicants for a job have better qualifications in the way of experience or training than others, and an employer who does not take these into account would be short-sighted; but, on the other hand, to disqualify a whole category of applicants, and blacklist them from the start as undesirable, without regard to their individual capabilities, is not only equally shortsighted, but highly un-American.

There is nothing revolutionary, or of wild-eyed radicalism about the bill before you, although you will hear many of its opponents so characterize it and probably deplore it as an evidence of Government interference with the rights of free enterprise. Actually, it is merely another application of one of the long-established principles of our Government; namely, to safeguard by specific legislation one of the fundamental rights of all citizens. This principle has been frequently applied over our history to the protection of political and civil rights and what is being sought now is merely what has been found by experience to be necessary; that is, protective legislation for the equality of economic opportunity. In other words, having in mind the constitutional provision, it is an endeavor to make secure one of the blessings of liberty.

The Senators who are sponsoring S. 984 have drawn a temperate measure. The elements of education and moral suasion¹ rather than the punitive are predominant in its enforcement features, and the decisions of the proposed Commission are appealable to the courts. The authors of this measure have approached the problem of discrimination with an eye to protecting the rights of all parties by ample and definite provisions with respect to procedure, judicial review, and enforcement.²

I think it is also a point of the highest importance and warranting the earnest thought of this committee in making its recommendation that this is a bipartisan bill, not so much because of the political considerations involved—although the national conventions of both major parties have endorsed this legislation in principle—but because the recognition of the need for it is so plain that eight Members of the Senate, four on each side of the aisle, agree upon it, lend their names to it, and pledge their wholehearted efforts to its passage.

Gentlemen, this bill is an honest effort to deal with an evil which cries out for remedy. Experience in New York, in New Jersey, and in my own State of Massachusetts has shown that in those three States, which already have anti-

¹ Sec. 7-A.

² Secs. 8-A through 8-I.

discrimination laws in operation, there is a definite decline in discrimination in employment practices.

Both prejudices and bigotry are not confined within State boundaries. This is a national problem which calls for treatment on both the State and National levels. I do not for a moment contend that this bill is a cure-all, or that discrimination will cease upon its enactment, or prejudice be eradicated. But if the Federal Government writes into the body of its statutes its own expression of abhorrence of these evil practices it will also encourage and hasten State action. Moreover, a national commission will be of immense aid to State commissions in setting standards of procedure and coordinating policies, in addition to acting administratively in its own sphere.

The need for Congress to enact such a law is twofold: economic and moral. First, the practices complained of deprive our national economy of the productive value of the work of individuals who are denied an opportunity to make full use of their education, training, and talents. These are vitally needed to carry out the Nation's program of high production and full employment. Secondly, we must make effective in everyday life at home the principles of democracy which we preach abroad.

I hope this committee and the Members of both the Senate and House of Representatives will pay no heed to the voices crying: "Do nothing about this situation." In every great struggle for progress and justice in the whole history of civilization there are always such voices, always the advocates of a do-nothing policy.

Rather I hope that you will recall the words of George Washington that this Government will "give to bigotry no sanction." For today, under economic conditions which could not have been foreseen in his time, the mere absence from the fabric of our law of any expression condemning unfair or discriminatory employment practices might be construed as giving them unwritten sanction.

STATEMENT OF MRS. KATHARINE L. MARSHALL, WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM, WASHINGTON, D. C.

Mrs. MARSHALL. Yes, Senator.

Senator DONNELL. How many countries are there in which your organization functions?

Mrs. MARSHALL. That I am not exactly certain of. May I say that I began to work for the league in September and I have not yet been in contact with groups in all of the countries where the league is organized. Just which they are I am not certain, but I know that we do have branches in all of the Scandinavian countries, in Great Britain, France, Czechoslovakia, Poland, Germany, Austria, and several of the Latin-American countries.

Senator DONNELL. You started in September 1946; is that right?

Mrs. MARSHALL. That is right.

Senator DONNELL. And would you tell us, now, Mrs. Marshall, something of your own educational background?

Mrs. MARSHALL. Shall we start with college?

Senator DONNELL. Yes.

Mrs. MARSHALL. I went to William and Mary for 2 years.

Senator DONNELL. In the first place, from what part of the country do you hail?

Mrs. MARSHALL. From Pennsylvania. I went to William and Mary for 2 years. Then I was married and followed my husband around the country while he was in the Army for 2 years. Then I went to Bryn Mawr, graduated in June 1946, with a major in economics.

Senator DONNELL. And you were not employed between then and September by this organization?

Mrs. MARSHALL. No.

Senator DONNELL. As legislative secretary, I take it you are a salaried employee?

Mrs. MARSHALL. Yes.

Senator DONNELL. Is that also an officer?

Mrs. MARSHALL. No; it is a staff member. I am present at meetings of officers in an ex officio capacity.

Senator DONNELL. You spoke of being around over the country during the time your husband was in the Army. Did you have occasion to be in the southern part of the United States?

Mrs. MARSHALL. Yes; I was first in Florida and Montgomery County, Ala., and Miami.

Senator DONNELL. For how long a period were you south of the Mason and Dixon's line?

Mrs. MARSHALL. For the period of about a year and a half. I was south of the Mason and Dixon's line 2 years at William and Mary.

Senator DONNELL. Now, your organization is entitled "Women's International League for Peace and Freedom." How is your organization governed—by delegates or conventions or what type of organization?

Mrs. MARSHALL. Perhaps you would like to hear just a little of its history. It was set up in 1915—not really set up; it was conceived in 1915 by Jane Addams of Hull House and a group of European women who met in the Hague in 1919. At the start, it was set up as an international organization with representatives from several nations before the national sections were developed. Then there was created the constitution and after that the national sections grew up. There used to be congresses, international congresses, every other year, following the period of its inception up to about 10 years ago, and the last congress that was held last summer was the first since the war. I think it was the first in 10 years.

Senator DONNELL. Where was that congress held?

Mrs. MARSHALL. It was held in Luxemburg.

Senator DONNELL. Did that congress make any expression officially as to discrimination against persons in matters of employment on account of race, religion, color, national origin, or ancestry?

Mrs. MARSHALL. Senator Donnell, the report of the congress, which had to be printed in two languages, has not yet come out of Geneva. I would like to be able to refer back to people who did go to the congress and tell you about it. I don't know.

Senator DONNELL. Just briefly; do you want to supply that?

Mrs. MARSHALL. I would like to supply it for the record.

(Subsequently Mrs. Marshall submitted the following resolution of 1919:)

I. INTERNATIONAL

The following resolution was adopted by the International congress held in Zurich in May 1919. It was at this congress that the Women's International League for Peace and Freedom formally acquired its present name and form. The resolution quoted below was one of several specifically designated as the basis for future work by the national sections of the organization within their respective countries:

"RACE EQUALITY

"We believe no human being should be deprived of an education, prevented from earning a living, debarred from any legitimate pursuit in which he wishes to engage, or be subjected to any humiliation, on account of race or color. We recommend that members of this congress should do everything in their power to

abrogate laws and change customs which lead to discrimination against human beings on account of race or color."

Senator DONNELL. Very well. Now, as to the United States, have there been any meetings held of the executive committee or the members in the last year or so?

Mrs. MARSHALL. Yes; we held an annual convention in late April in Philadelphia.

Senator DONNELL. Of this year?

Mrs. MARSHALL. Yes.

Senator DONNELL. How large an attendance did you have?

Mrs. MARSHALL. I really could not tell you—about 50 or 60.

Senator DONNELL. Fifty or sixty persons?

Mrs. MARSHALL. Yes.

Senator DONNELL. From all parts of the United States?

Mrs. MARSHALL. Yes; we have branches in 71 cities.

Senator DONNELL. And these 50 or 60 are all women who belong to the organization?

Mrs. MARSHALL. No; some of them are men.

Senator DONNELL. Some of those 50 or 60 are men?

Mrs. MARSHALL. No; there were observers who were men. The delegates were all women.

Senator DONNELL. Did they make any official expression with respect to discrimination in employment because of any of the bases to which I have referred—race, religion, color, national origin, ancestry?

Mrs. MARSHALL. No; but it is the well-known policy of the organization.

Senator DONNELL. You say it is well known that your organization stands for principles of this kind?

Mrs. MARSHALL. Yes.

Senator DONNELL. That are enunciated in this bill—the general basis?

Mrs. MARSHALL. Yes; I will cover that a little in my statement.

Senator DONNELL. Do you have any official expression of your organization on that?

Mrs. MARSHALL. Not today.

Senator DONNELL. Have you anything that you can furnish?

Mrs. MARSHALL. I am quite sure I can.

Senator DONNELL. Will you do that in the next few days?

Mrs. MARSHALL. Yes, sir.

Senator ELLENDER. Where did those delegates come from that met and passed on that resolution?

Mrs. MARSHALL. Well, California, Wisconsin, Ohio, Massachusetts, Pennsylvania. There was one from St. Louis.

Senator DONNELL. Who was that young lady, if you recall?

Mrs. MARSHALL. I could give you her name. I can't think of it now.

Senator DONNELL. Will you supply it for our records?

Mrs. MARSHALL. May I take a few notes of the things I am to supply?

Senator DONNELL. Did you have any delegates from Southern States, from Atlanta, New Orleans, Dallas?

Mrs. MARSHALL. No; we have very few members in Southern States. We do have some in New Orleans, some in Virginia, some new ones in North Carolina. I ought to get in touch with the administration office if you want figures on that—a break-down of where our members are located.

Senator DONNELL. If you will do that, we will be obliged to you. Approximately how many members do you have in the United States?

Mrs. MARSHALL. Four thousand. I want to say, also, that there are 4,000 members in the United States, and in Denmark there are 20,000 members.

Senator ELLENDER. Will you give the membership by States, of those who voted for the resolution?

Mrs. MARSHALL. I will try to do that.

Senator DONNELL. What is the latest expression on the matter of discrimination in employment? Do you recall that?

Mrs. MARSHALL. No; I do not.

Senator DONNELL. And was there any expression made in the United States section at any time on that?

Mr. MARSHALL. By the United States section?

Senator DONNELL. Yes; the United States section.

Mrs. MARSHALL. Yes; and I think by the international.

Senator DONNELL. We will be very glad to have both, and I think we would like to have you give us both. Now, will you proceed with your statement?

(Subsequently Mrs. Marshall submitted the following:)

II. THE UNITED STATES SECTION OF THE WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

The 1945, 1946, and 1947 annual conventions of the United States section endorsed the creation of a permanent fair employment practices commission in the United States.

A. 1945 resolution to the President and the Members of Congress:

"The Women's International League for Peace and Freedom, assembled in annual convention at Haverford, Pa., May 3-6, 1945, asserting that the right to work is the right to live, urges the immediate enactment by the Senate and the House and the signature by the President of S. 101 (or H. R. 2232), creating a permanent Fair Employment Practice Commission with enforcement powers to insure every man and woman in this country, of whatever race, creed, or color skin, an equal opportunity to work for a living at the top level of their skills."

B. 1946 statement in domestic program for the year:

"FEPC"

"The League stands for a Permanent Fair Employment Practices Committee and supports legislation to this end. It urges this not only as a matter of policy but as a concrete measure to implement the principle enunciated in the United Nations Charter of the promotion of basic human rights without regard to race, religion, or sex."

C. 1947 quotation from heading No. 6, "Civil liberties," under section V, "Democracy and human rights," of the "Principles and policies" adopted for the current year:

"* * * The League urges the repeal of the poll tax, the establishment of the FEPC, and such other measures as would prevent the denial of human rights on grounds of race."

Mrs. MARSHALL. I speak in support of S. 984 for the United States section of the Women's International League for Peace and Freedom. I have heard the league described as both an international and an interracial organization. Actually, the word "interracial" is inadequate, for since its inception, in 1915, this organization, including the

United States section, has sought its members from all religious and national as well as racial groups. Today the paid and volunteer personnel of the United States section constitutes a similar cross section of human origin and background.

The basis for this policy of the league and for its support of this bill is the conviction that peace and freedom require that all citizens of all lands enjoy equal rights under the law and equal access to productive employment. Unless all nations learn to evaluate every person on his individual merits, unless religious and racial bigotry can everywhere be shown to be ultimately destructive of the rights of all, there is little chance for understanding within or among nations.

You are all aware of the avid attention focused from abroad upon each and every instance of racial and religious discrimination in American life which reaches the public eye. Members of the United States section of the league who attended its international congress in Luxemburg last summer can testify to this from direct experience. They reported that questions about treatment of minority groups in the United States were the first they were asked by delegates from virtually every other country represented. Make no mistake, it is not only those people who seek adherents to a philosophy quite different from ours who examine our profession of devotion to freedom both critically and skeptically. Many of this world's most passionate lovers of freedom, those whom we want most to remain our friends, are often hard pressed to defend us.

Senator ELLENDER. Mrs. Marshall, when you refer to "minority groups" in your statement, do you mean—

Mrs. MARSHALL. Well, I use that perhaps too loosely. I mean nationality groups, racial groups, and any religious group.

Senator ELLENDER. What about the number? We had a witness here yesterday who testified that Catholics in this country were a minority group. Do you agree with that?

Mrs. MARSHALL. I don't know the number.

Senator ELLENDER. Twenty-two million. Would you call that a minority group?

Mrs. MARSHALL. No; I should think that would not be a minority group.

Senator ELLENDER. If that be true, you would have no majority group in this country. They would all be minority.

Mrs. MARSHALL. No; I think—

Senator ELLENDER. I say, if you follow it to the logical conclusion, there would be no majority groups; they are all minorities.

Senator MURRAY. Of course, that is true. There is no majority group in the United States. It is constantly fluctuating, as in politics. The Republicans are in here now.

Senator DONNELL. That is the majority group now. We hope they will remain here permanently.

Senator MURRAY. Maybe they will, judging from what is going on in the Nation today.

Senator DONNELL. Proceed, Mrs. Marshall.

Mrs. MARSHALL. United States aid to Greece and Turkey is held up as practical application of a general policy of building democracy abroad to halt the expansion of totalitarianism and thus strengthen the United Nations. The league feels that passage of S. 984 itself would do much to implement both parts of that general policy.

It would demonstrate the sincerity of United States concern for individual freedom and the ability of our system to give increasing substance and breadth to that freedom. It is obvious that continuing patterns of racial, religious, or nationality discrimination in any area of the world today are more than ever an invitation to communism. It would, as its authors recognize, be a convincing demonstration that the United States intends to fulfill in its domestic affairs obligations assumed under the UN Charter. It would demonstrate the effectiveness of the United Nations as an operating force if its greatest, most powerful member were to make this carry-over from Charter to domestic legislation.

The league recognizes the necessity for approaching this problem which has clouded the American scene for generations with temperance and moderation. We believe that S. 984 embodies the moderate approach. The basis of real opportunity is equal access to whatever employment one is qualified for. We also believe that guaranteeing equal access to employment is essential and that S. 984 in its present form contains the minimum regulation and enforcement provisions possible if the guaranty is to be at all effective. That this measure attempts to guarantee only access to a job and not the job itself should not be forgotten. There is no right of the individual more basic than his right to help himself.

Senator DONNELL. Mrs. Marshall, you state that you believe S. 984 embodies the modern approach to the question. You are familiar with the section under "Judicial review" and the powers of the Commission stated therein?

Mrs. MARSHALL. Yes; I am familiar with them—I should not say too familiar.

Senator DONNELL. You have read the section?

Mrs. MARSHALL. Yes.

Senator DONNELL. And you are aware of the fact that if an order of the Commission be not complied with, and if recourse be had to the courts, the court is here authorized to issue orders requiring compliance with the orders made by the Commission. You realize that?

Mrs. MARSHALL. Yes; I do.

Senator DONNELL. And I take it you are not a member of the bar now; but, at any rate, I assume that in your thoughts here, you recognize the fact that the court can enforce its orders by fine or imprisonment? You realize that?

Mrs. MARSHALL. Yes. I think I would like to say here something which I thought of while the witness who preceded me was talking, when you were talking to him about this question. I think this is moderate because of the inclusion of provisions for conciliation and for more or less informal settling of these problems by conciliation. I think the fact of the enforcement provisions provided if the order is not complied with, the matter must be taken to court, will merely help to cut down the number of court cases, because I think there will be more encouragement to settling beforehand.

Senator DONNELL. Mrs. Marshall, I don't think the bill says that if the order is not complied with, the matter must be taken to court.

Mrs. MARSHALL. No, sir.

Senator DONNELL. The Commission has the power to proceed to court, and any person aggrieved at the final order of the Commission

may obtain a review. Somebody has to take initial action, either the Commission or the person aggrieved. The court does not assume jurisdiction without jurisdiction being sought by someone. But after the jurisdiction has been sought you appreciate the fact that the court has power to make a decree enforcing the order of the Commission, and that a decree of the court, if not complied with, can be the basis for contempt proceedings. You realize that?

Mrs. MARSHALL. Yes; I do.

Senator DONNELL. And you have that in mind when you say that S. 984 embodies the modern approach?

Mrs. MARSHALL. Yes. I say it is the minimum, however, which can be done if a law is to be at all effective.

Senator DONNELL. Mrs. Marshall, you said you had a membership of 4,000 in this country?

Mrs. MARSHALL. Yes.

Senator DONNELL. How is it maintained?

Mrs. MARSHALL. It's hit or miss, shall we say, by no specific group whatsoever.

Senator ELLENDER. What size staff do you have, Mrs. Marshall?

Mrs. MARSHALL. Two. Myself and a secretary.

Senator DONNELL. Thank you very much, Mrs. Marshall, for giving us your testimony. Our next witness is Julius A. Thomas, director, department of industrial relations, National Urban League, New York City. Will you please state your name and address, your occupation, and something of your background?

STATEMENT OF JULIUS A. THOMAS, DIRECTOR OF DEPARTMENT OF INDUSTRIAL RELATIONS, NATIONAL URBAN LEAGUE

Mr. THOMAS. My name is Julius A. Thomas. I am director of the department of industrial relations of the National Urban League, whose offices are at 118 Broadway, and I live in New York City.

I attended college here in Washington, Howard University, some 30 years ago. I attended Western Reserve and I have been at Columbia University.

I have been employed by the Urban League for 23 years—this is my twenty-fourth year—in my capacity as director of the department of industrial relations. For the past 4½ years, my specific responsibility has been to stimulate the development of personnel practices and procedures that would facilitate the introduction of Negro workers in business and their entry into the professions. That is one of the phases of the program of the National Urban League, and is also incorporated in the program of the 56 urban leagues around the United States.

Senator DONNELL. Where was your birthplace?

Mr. THOMAS. My birthplace is Greensboro, N. C.

Senator DONNELL. How long did you live in North Carolina?

Mr. THOMAS. Until I was 10 years old.

Senator DONNELL. From North Carolina, where did you go?

Mr. THOMAS. To Charleston, W. Va.

Senator DONNELL. How long did you stay there?

Mr. THOMAS. Until I was 17, when I entered college.

Senator DONNELL. Which college, Howard University?

Mr. THOMAS. Howard University, here in Washington.

Senator DONNELL. What did you specialize in, in Howard University?

Mr. THOMAS. Economics and sociology.

Senator DONNELL. I understood you to say also you attended Western Reserve and Columbia University?

Mr. THOMAS. That is right.

Senator DONNELL. What did you specialize in there?

Mr. THOMAS. Social worker administration and economics.

Senator DONNELL. Did you take degrees from the three institutions you mentioned?

Mr. THOMAS. Only from two.

Senator DONNELL. What were the institutions from which you received degrees?

Mr. THOMAS. Columbia and Howard, A. B. and masters.

Senator DONNELL. Now, would you tell us something of the National Urban League? What is that organization?

Mr. THOMAS. The National Urban League is an interracial social-work agency founded in 1910 for the purpose of developing social services to meet the needs of the migratory Negro population, which at that time was just beginning to move to urban sections. That is where the name "Urban" comes in. We are concerned primarily with the problems of urban dwellers.

Senator DONNELL. Since you were 17, you have not lived in South Carolina? Is that right?

Mr. THOMAS. I worked in Atlanta, Ga.—that was my first Urban League assignment—in 1924, and I worked in Jacksonville, Fla., as executive of the Urban League for 5 years. I worked in Louisville, Ky., as executive of the Urban League for nearly 14 years.

Senator DONNELL. How large a membership has the National Urban League?

Mr. THOMAS. The Urban League is not primarily a membership organization. In our local communities, the Urban League is a part of the social-work machinery of the community. It is identified with the Council of Social Agencies and the Community Chest. Our national organization has a relatively small membership which we call our "contributing members," possibly 3,000. We are financed by voluntary contributions.

Senator ELLENDER. What connection, if any, do you have with the National Association for the Advancement of Colored People?

Mr. THOMAS. Only in that we cooperate on problems of mutual interest and mutual concern. They are an entirely different organization, and they operate more in the areas of civil rights and civil liberties. We operate in the social-work field.

Senator ELLENDER. How much time have you actually spent in the South since you engaged in this social work?

Mr. THOMAS. Well, I would say 6 years in the deep South and 14 years in what is referred to as the "border South"—we will call that Kentucky. In the past 4 years I have made three trips through the South, looking into the problems we are considering now.

Senator ELLENDER. From the time that you first entered the South and appreciated the conditions that you are now trying to alleviate, have you found any progress and, if so, to what extent? If not, I would like to know that.

Mr. THOMAS. There has been some progress in improving, to a limited degree, the educational opportunities that are available. I do not seem to see now any progress worthy of note in this matter of employment opportunities. Apparently the resistance to any change in certain employment patterns is so extremely vigorous that we feel very much frustrated sometimes when we try to measure what we are doing.

I think it is fair to add this statement: Many of the southern communities are deeply concerned about this whole problem. They have asked us to come and make surveys of their needs. In the past 2 years we have surveyed 13 cities and 7 of them were southern cities. In three of them some programing has been attempted in an effort to meet some of the problems that stem from this basic problem of economic opportunities.

Senator ELLENDER. At whose request did you do that?

Mr. THOMAS. At the request of the community, usually a sponsoring committee representing a cross-section of the community's leadership with the mayor of the city serving as the honorary chairman of the committee. That is the only condition under which we would go.

Senator ELLENDER. Doesn't that in itself show intention to try and alleviate the condition you are trying to help?

Mr. THOMAS. I quite agree it does, Senator, and I think we should have some more help now to translate intentions into some action.

Senator ELLENDER. What kind of help? You don't mean by force, do you?

Mr. THOMAS. I don't mean by force; no.

Senator ELLENDER. I didn't think you did.

Mr. THOMAS. But I think there must be some thought given to our conception of equality of opportunity in this country. I think more people in America have got to know and to feel the thing that we express in our law. In every one of our public pronouncements, in any of our pronouncements on world affairs, we stand forth in the world as a country which says "Every man has a chance," and I think the majority of the American people are willing to grant every man a chance now, but I think there is not yet the motivation for it.

Senator ELLENDER. In your travels, or I may say, in your experience, where have you found the most discrimination? I mean, as to color?

Mr. THOMAS. Are you referring particularly to the matter of employment or do you refer to the total field of discrimination?

Senator ELLENDER. Well, discrimination as to employment because that is the subject now before us under discussion.

Mr. THOMAS. I must say that the greatest amount of discrimination that we have to deal with is definitely in the South.

Senator ELLENDER. That is not according to the way Malcolm Ross found it, as I recall his statement—I believe he found less in the South during the war from 1941 to 1945, during the last hours of the FEPC.

Mr. THOMAS. Well, I am familiar with that statement.

Senator ELLENDER. I want to say this, that the South, as you know, cannot offer the manufacturing opportunities that the North does. The South has always been poor, has always been a vassal of the North when it comes to, I would say, economics, to the creation of wealth. This may not have come to your attention, but do you know that out

of every \$100 the South spent during the war, \$87 of those dollars found their way into the northeastern corner of our country, from the western portion of Wisconsin down south to the Ohio River and then into that little nook in the Northeast? Did you know that?

Mr. THOMAS. I know that.

Senator ELLENDER. Therefore, isn't it a fact that in order to alleviate conditions as you are now trying to do, we should have more opportunity in the South for all the people in the South?

Mr. THOMAS. I agree with you most thoroughly, Senator.

Senator ELLENDER. And don't you think the complaints you have heard about the lack of education, lack of facilities, lack of this, that and the other, have been because of the poorer condition of the South in contrast to the other parts of the Nation?

Mr. THOMAS. I would agree partly with that. I think the quality of education can be improved within the framework of the present organization.

Senator ELLENDER. But don't you know that it has improved in the past 25 years?

Mr. THOMAS. Yes; considerably. I have been in many of your schools and most of the colleges in the last 3 or 4 years.

Senator ELLENDER. I happened to serve in the Louisiana Legislature in 1924 and I was a member of the convention that drafted our present constitution in 1921 and I can tell you this, that there is more money today spent in Louisiana for colored education than we had for both colored and white only 30 years back.

Mr. THOMAS. I will agree with you on those figures.

Senator ELLENDER. Don't you think that the most progress has been made there, insofar as education is concerned, insofar as our ability to assist colored people is concerned?

Mr. THOMAS. Yes; I don't deny that at all, Senator.

Senator ELLENDER. Don't you feel that if the Congress passes this educational bill which I am fostering now—I have been for 10 years trying to get Federal assistance in order to assist children, no matter where they are—don't you think that the passage of such a bill as that will alleviate the conditions that you complain of?

Mr. THOMAS. Very much so, but I still think, Senator, if I may, that unless there are opportunities for the people who get the benefit of this training, to use it, it seems to me there is bound to be a constant frustration, and that does not apply to race alone. It applies to all the people because I think all the people should have that right. We are concerned now because there are a million young men, veterans, entitled to training. They are not getting it in many sections of the country because the training is not there.

Senator ELLENDER. That is a condition that cannot be helped because we don't have the facilities and it takes time to do that, as you know. We have been concerned with a lot of situations here before this committee, as well as other committees of the Senate. There are quite a few veterans today who are entitled to college education and cannot get it because of the vast number trying, all at once, and you cannot build a college to take care of the overflow overnight. It takes time. And by the same token, it takes time to attain the things that you and others are trying to attain. Isn't that true?

Mr. THOMAS. That is true, and I think it takes incentive, too, Senator. I have worked with a lot of employers who have the day-to-

day problem of "How do we do this thing?" We are expecting to furnish them something of the best experiences that we have observed around the United States in the past thirty-odd years. Now, I know that the great majority of the forward-looking employees of this country are willing to say "All right, show me how this can be done without interfering with the productivity of my enterprise, or with my workers. I have no desire to leave anybody out."

That help is fine and it seems to me the purpose of this law is to give stamina to the desire of the people who want to do that and that is the way we see it operating in Europe.

Senator ELLENDER. Of course, as I pointed out on several occasions, you may need it more in New York, you may need it more in Detroit, because of the fact that they do practice more discrimination than in other sections of the country.

Mr. THOMAS. I wish I could agree with you on that, Senator.

Senator ELLENDER. But you don't have to. You read Malcolm Ross' report to the Congress. You want to see that.

And another thing, as I pointed out here on several occasions, and according to the tenor of your own statements here, there has been progress and for the good of the people you are trying to assist, don't try to force it. Let it take its natural course and let it come about through education.

Mr. THOMAS. May I say this, Senator, about the Malcolm Ross report? The report says that they have received fewer complaints from the South. I would like for you to know that the machinery through which the complaints were supposed to go to FEPC failed to work in the South.

Senator ELLENDER. Well, I don't see why it should, because I can point out to you that this bill was written in order to try to equalize job opportunities, as I understand it, to give all equal opportunities. But when you look over the statistics to see who manipulated and who operated FEPC during its existence, you will find that in the review analysis issued here in Washington, there were 88 employees and out of that 88, 88 were colored and 2 were white. The entire management was in their hands. And the same thing, I can point out—I don't want to take the time of the committee, but in every division, every board, and every branch established throughout the country, colored persons were in the majority and they had full access to all of this and I am surprised that the report should show that—because of that—that in the South we had fewer complaints than in Detroit and in the North.

Mr. THOMAS. Will you indulge me a minute and I can talk on about how that operated.

The complaints originated at the scene of the alleged discrimination and passed through the machinery put up by FEPC, the prescribed form was filed in Washington if no adjustment could be made on that complaint at the scene of the alleged discrimination. What I am saying is that the reports of discrimination which were channeled into Washington through certain divisions of the War Manpower Commission were not sent in to Washington through the southern division of the War Manpower Commission and there was some reason for that. I would like to remind you that there were no Negro people on the staff of the War Manpower Commission in seven States. There are still five or six States that have no Negro personnel in the employment

service, even though their case load, service load, will run 50 percent Negro. Unless a worker was actually referred to a job, and unless that worker was refused the job after having been officially referred, he could not file a complaint of discrimination. He could not say, "I went over and talked to the personnel man and he didn't give me the job, and I have been discriminated against." The machinery was pretty well set up so that the whole thing would be done in an official manner. That accounts to a very great extent for the lack of complaints from certain States and from certain sections. The machinery just was not there to handle it. They simply didn't function.

Senator ELLENDER. I will not argue with you, but it is strange that in places like Detroit—the whole northern section—the percentage of complaints from those sections was tremendous compared to what it was in other sections. But I don't want to argue any further. I know you have a long statement to make.

Mr. THOMAS. I don't want to read this statement. It is much too long.

Senator DONNELL. How long is it?

Mr. THOMAS. Thirteen pages. I would simply like to call attention to a few of the things that are in here.

Senator DONNELL. You will file the statement, I take it, for the record?

Mr. THOMAS. I will file it as part of the record.

Senator DONNELL. It will be so incorporated at the conclusion of your testimony.

Mr. THOMAS. I would like to file also a statement of the purposes of the Urban League and its directors, as part of the record.

Senator DONNELL. These two documents will be received for the files. Whether they will be printed, will depend upon the action the committee may subsequently take. You realize we have some limitations. We try to restrict the amount of printed matter, but those documents will be received for the files of the committee.

Senator MURRAY. Have you extra copies of those documents?

Mr. THOMAS. Yes; I have. I brought enough for the committee.

Senator MURRAY. I think you should furnish them to each member of the committee.

Mr. THOMAS. Yes; I think I have enough for them.

This question, of course, is not new to us, but, as I said, we have been working at it for 37 years. In our convention in St. Louis on September 23 to 28, we adopted a resolution—

Senator DONNELL. Of last year?

Mr. THOMAS. This past year—we adopted a resolution on fair employment practices, which is embodied in this statement. At that meeting were 75 to 80 percent of our staff and a considerable number of our board members who always attend our annual conventions.

Our executive board on June 9 went through this bill and authorized me to express for the executive board its unqualified approval and endorsement of the bill. That is in the record.

In my statement here, I have attempted to give the committee some rather fundamental facts about the position of Negro workers in the National Labor Board. I have not attempted to cover the whole field of the so-called minority group because we have been primarily concerned in this aspect of it and I did not think we are competent to discuss some of the other phases of it.

I have tried to give you a picture of what happened to Negro labor during the war years. I had the privilege of visiting about 125 war plants during the war, to sit down with plant managers, personnel directors, union officials, worker groups, to see what actually happens when we attempt to develop democratic employment practices, and part of my report is embodied in the supplementary folder that I am filing with the committee.

I think one of the most important interracial experiences in America during the war years was the fact that nearly a million Negro workers were introduced into industry of all kinds around the country and in most industries on the basis of equal treatment, and that there were so few instances of the thing that is frequently pointed out as the danger in attempting to do this. I went through plant after plant all over the country to see how that was working out and I think it is an important part of the consideration of this entire question of whether or not it can be done. We believe it can be done.

I have given one or two case illustrations of firms with which we worked very closely, and in one instance a firm which increased its Negro employment from 2,000 to 8,000.

Senator DONNELL. Where was that firm located?

Mr. THOMAS. One plant is in New Jersey, one plant in Illinois, one plant in Lincoln, Nebr., another plant in St. Paul, two or three plants in New York. They had a total of nearly 100,000 workers during the war, of whom about 8,000 were Negroes. Their cut-backs are completed and they still have nearly 6,000 Negro workers on their pay roll, but before the war they had practically none, out of a working force of 60,000 or 65,000. That is an industry that manufactures communications equipment.

Senator DONNELL. Does that company have any plants south of the Mason and Dixon line?

Mr. THOMAS. They have now moved a plant to Winston-Salem, and we are working with their personnel department now in an effort to spread job opportunities. Up to now, we have not been able to do very much but get some jobs as porters in the plant. There are numbers of veterans with war training in communications and communications equipment, and they have applied for work, but up to now we have not been able to place any of them.

Senator DONNELL. Did you say Winston-Salem?

Mr. THOMAS. Winston-Salem, N. C. I think it is a pretty fair statement to say that as a matter of fact industrial management has been rather surprised with their experiences during the war. They had certain notions about the inherent capacity of people to do things and some reluctance to train them, to put them on these machines. They have found that most of their feelings about this thing were wrong and that human capacity is something that you can find in people of all kinds. I think that is another very important factor in considering this whole question because I don't think anyone would want any employer to be saddled with worthless workers who could not do a good day's work. I don't think it is the intention of the Bureau and I know certainly it has not been the intention of the New York commission, to force a worker on any employer unless that worker had the qualifications right up to the very nose. I think there is acceptance of that fact in industry and a wide segment of industry is pretty sure about that thing now. There are not too many people who feel that the only job

you can afford to trust a colored worker with is a porter job or a janitor job. They don't believe that any more.

Since VJ-day I have tried to give you a brief statement of what we see in the national picture. I have just come back from a tour of the west coast from San Diego up to Seattle and a little better than 30 percent of the Negro workers on the west coast are unemployed. I talked with all of the unemployment service people; in fact, I met with the staffs of all the employment services in Los Angeles, San Francisco, Portland, and Seattle and they said to me: "We simply can't refer these people, regardless of their qualifications, because we have discriminatory job orders and we simply can't refer them."

Senator ELLENDER. What did they mean by that?

Mr. THOMAS. They cannot assign them to job openings they actually have on their files.

Senator ELLENDER. Because?

Mr. THOMAS. Because the employer has asked for workers by a racial classification.

Senator DONNELL. Who is it that is giving you this information?

Mr. THOMAS. The State employment service in California, the State employment service in Oregon, and the State employment service in Washington. Now, I think this legislation will correct that. I think the employment service ought to refer a competent man to a job opening. I think it is not doing its service to the people if it says, "We cannot afford to recognize your qualifications." And I don't see any other way to correct that—and heaven knows, if anybody has worked harder with local employment services than we have, I don't know who it is. We have tried to give them all the help we could, even to the extent of going to and talking to an employer, to see if we could not get him to take one or two competent colored people.

Senator ELLENDER. When did you make the survey to which you refer?

Mr. THOMAS. In California 4 weeks ago.

Senator ELLENDER. Have you made any similar surveys in other parts of the country?

Mr. THOMAS. We are making a survey of the South now, Senator, State by State, on unemployment and on the position pattern.

Senator ELLENDER. Have you any complete analysis of any Southern States, particular States in the South?

Mr. THOMAS. We have an analysis of Mississippi, we have a partial analysis of Louisiana. It doesn't look very good, Senator. Forty-five percent of your Negro veterans are unemployed.

Senator ELLENDER. Where?

Mr. THOMAS. In Louisiana.

Senator ELLENDER. Did you check on the white veterans, too?

Mr. THOMAS. Yes, I did not get the figures on the white veterans.

Senator ELLENDER. My guess is that you will find as many unemployed among them.

Mr. THOMAS. You think there would be as many?

Senator ELLENDER. Oh, yes, for the reason that in Mississippi the population is 50-50, colored and white. I get letters every day—I can show you my files, from white veterans in my own State, crying for work, and I imagine that if you were to project your investigation into the number of unemployed white and colored in Mississippi, you will find, that, as a rule, the ratio is in proportion with the population.

Mr. THOMAS. In most of the studies we have completed, the rates run from two to three times as high for colored workers.

Senator ELLENDER. Well, I will grant you this, that that condition may exist but it is not as pronounced today as it has been in the past and it is gradually coming up. Why? Because of better educational facilities that have been afforded to both the white and the colored in the State of Mississippi, as well as the State of Louisiana and various other Southern States.

Mr. THOMAS. Well, I was not so impressed with the report from Mississippi where they had 87,000 Negroes inducted into the service and 60,000 of them had returned to the States and there were 200 in the State college out of the 60,000.

Senator ELLENDER. What was that number?

Mr. THOMAS. Two hundred and sixty at the State college, and that was about the only training available to those veterans.

Senator ELLENDER. When you say "State college" is that a colored school?

Mr. THOMAS. That is a colored State college.

Senator ELLENDER. Did you try to determine the cause of that?

Mr. THOMAS. Well, the facilities are not there. That is one of the answers. The other answer is that some people were taking advantage of the arrangement under which veterans study and were setting up private training facilities that were presumed to be approved by the State department of education, but which, when examined, would fall far short of even a minimum standard of training. I have reported that situation to General Bradley and to General Erskine and I have discussed it with the Veterans' Administration, with the consultant at the Retraining and Reemployment Administration for the past year. I do hope some steps will be taken to correct what I consider an abuse of the GI bill with respect to training and since there are not adequate training facilities, the tendency is to multiply these overnight training schools, through which the operators can draw on the funds allotted for training, and on any other funds that can be obtained through the Government. We have at least half a dozen such schools now that we are studying pretty carefully and we are going to make a complete report on them. Of course, we think there is abuse of the laws there.

Senator ELLENDER. You realize, of course, that a veteran has the right to select his own school?

Mr. THOMAS. Yes, but I realize that a school has no right to accept a veteran when it is not qualified to give him what it says it is going to give him.

Senator ELLENDER. The point that I desire to make is that if the colored veterans in Mississippi—in fact, in any State—are not satisfied with the curriculum of a particular college, they can certainly apply to the Veterans' Administration, no matter where it is.

Mr. THOMAS. I would like to tell you, Senator, that there are 28,000 Negro veterans in the segregated colleges. Every one of them has an enrollment of from 25 to 50 percent more than its capacity to absorb them.

Senator ELLENDER. I can say the same thing for many colleges throughout the country.

Mr. THOMAS. So when you say a boy can say where he wants to go, he might wait 4 or 5 years to get in.

Senator ELLENDER. Too many applicants is the trouble. We held hearings here that showed—I don't remember the number, but it is hundreds of thousands—who cannot be enrolled this year, and it is due to lack of facilities, not because the man belongs to this church or that church or because of color or anything else. We are being besieged, I would say, by a flood of complaints—I think Senator Donnell has received them—if he has not, he has been very fortunate—from many veterans from all over the country, desiring to enter college under the GI bill but unable to do so because of lack of facilities.

Mr. THOMAS. Senator, I wish I could drop you the mail that I get every week from veterans all over the United States who want to know where they can get training in this, that, and the other. I have gone over them for a year.

Now, I have attempted to give you some information here which I think will answer one or two questions that were raised about how extensive is the discrimination, and I have prepared from reports prepared from the Department of Labor, beginning with page 10 and extending on to page 11. These reports I prepared monthly and delivered to every office of the Employment Service in the United States. They cover every major industry. I could have put in a hundred here but I limited it to 10 and I want you to see what the Department of Labor says about employment opportunities for nonwhites in certain industries, and the first one here on page 10 from the report for April 1947 on agricultural machinery and tractors, page 22:

The industry offers new job opportunities to nonwhites.

I might add this point, nonwhites are usually about 08.5 percent Negro when we talk about "nonwhites." It is an appropriate term used in certain Government documents to avoid saying "Negro," so we accept that as nonwhite.

Senator ELLENDER. What is the percentage of colored employed in agricultural-machinery factories?

Mr. THOMAS. They constituted 5.4 percent of the total employment in March 1947, substantially the same proportion reported since October 1946. They are employed chiefly in nonskilled jobs. One State, Illinois, accounted for almost three-fourths of the industry's reported nonwhite employment.

Senator DONNELL. Suppose that this law were passed, and the Negroes were to step up and claim their proportion of the jobs, what is going to happen to the white men who are displaced? What is your idea as to the problem presented then?

Mr. THOMAS. I do not conceive of displacement. I conceive of an expanding economy that will give all people the chance to work. I don't think we even should think in terms of displacement.

Senator DONNELL. Pardon me, there. I want to take this illustration and see what your thought is on this. Suppose we have a plant here that has 1,000 employees right now. Suppose that only 10 of those are Negroes and the proportion later on should be determined that they are entitled to 20 percent, so there should be 200 Negroes instead of 10. But the plant does not, we will say, increase its productivity. I mean to say, there is no increased demand. They can only employ 1,000 people and the 190 additional colored people step up and

claim their jobs and get them. That means that there would be 100 out of the 900 whites that would have to step out. What is your idea of that situation?

Mr. THOMAS. The law does not work that way, Senator. The law says only "hire." You cannot go behind an employer's work force and say, "You have got to square your work force with the ratio percentages."

Senator DONNELL. I think you are right on that, too.

Mr. THOMAS. The law says "hire." It means that maybe in 10 years the 10 Negro workers would become 30.

Senator DONNELL. I don't know whether you are right on that. I just want to get your judgment on it. Section 5 (a) of the bill says this, and I think it raises a very interesting question right along this line:

It shall be an unlawful employment practice for an employer to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry.

I am not clear as to just what the legal effect of that would be in the case I have cited. Here are 100 Negroes who walk up and say, "We are entitled under the law to employment. You have no right to keep us out. It is an unlawful employment practice for you to refuse to hire us." What is your idea of the construction that a court, before whom this matter would come, should put on that language? Do you think that would entitle the employer to say, "I already have my force. You can't require me to throw anybody out"? Or would it only apply in cases in which the employer was starting all over again or was letting out some people and was going to employ new people? What is your construction of that?

Mr. THOMAS. The New York law says substantially the same thing. The only interpretation that we can put on the New York law is that it applies to the individual who applies for a job when there is a job there, and he doesn't get that job, and believes that he doesn't get the job because he is a Negro, or what have you.

The Commission has no authority to go to an employer and say, "Look, Jim, you should have 200 Negro workers here. You haven't got but 10 and unless you bring that percentage up, we are going to have to press down on you."

Senator DONNELL. Has that been decided by the Commission itself?

Mr. THOMAS. That has been decided and I have met with the Commissioners and discussed it on a number of occasions.

Senator DONNELL. Do you know whether or not they have issued any official statement on that point?

Mr. THOMAS. I am pretty sure they have. The interpretation of the law applies only to the hirers, after the law becomes operative and an employee who files a complaint must have been discriminated against himself or must have had reason to believe that he was discriminated against. Now, 20 years from now, if you look at the X firm and you say, "All right, in 1947, you had 1,000 workers and you had only 10 Negroes; in 1967, you have 1,000 workers and you have only 3 Negroes" the conclusion, the assumption would have to be that somewhere in the process of selecting his applicants, he has weeded out or refused to consider the qualification of competent Negroes or other people who may have applied to his plant for jobs.

Senator DONNELL. May I ask your interpretation of the statute along this line: Suppose that we take this plant that has 1,000 employees, located in the State of Ohio, 1,000 employees, and for some reason 100 of those employees conclude that they are going to move to Altoona, Pa., and work for some company over there, so they move out en masse; of those 1,000 employees, there are only 10 that are Negroes, and we will say that the proper proportion, if you are starting at the beginning, would be 20 percent Negroes. Now, this leaves a deficiency of 100 in this 1,000 that I have started with. What is your interpretation there? Would the colored people be entitled to step up and claim their percentage of 20-percent employment in that plant?

Mr. THOMAS. No; not under the law. An individual qualified for the job is entitled to apply for it regardless of his race or his color and the employer is not obligated to hire any percentage. I think that is an excellent feature of all of these laws because there is nowhere that we define the number of people that are to be employed. We do not use percentages in our discussions of employment practices in our organization because we do not think they are a very accurate yardstick by which to measure this whole business, but that the employer have a right to employ whoever might be in the labor market, who is qualified to do the job.

Senator DONNELL. I do not want to take too much time here on this one illustration but I would like to get your idea on this. Here are these 1,000 people we start with; 10 of them are negroes and 990 of them are white people; 100 of them move out, 100 whites move out, and 100 colored people come up and 100 white people come up, all wanting employment. Who is entitled to it? How many will be entitled to be employed from the colored group?

Mr. THOMAS. If they have a personnel department that knows its business, it will employ those people in the order of their applications for the jobs regardless of their color or anything else. The employer would set up his list of job applicants, and if he would say, "I will begin with the applicants who came on January 1 and go right down the line and examine those applicants in the order in which they applied, regardless of their race," he would discriminate against a white worker if he refused him a job and that worker had the qualifications and the job was available.

I don't think it is the intention of the law to ask any employer to regard any kind of percentages with respect to the complexion of his work force. I don't think that was even in the thinking of whoever wrote the law.

Senator ELLENDER. I have noticed that at the bottom of page 10, you refer to the agricultural machinery and tractors business. Do you know that most of that business is located in the North? We don't have that kind of industry in the South. And another thing, if you have studied the labor records, you have found that most of the industries are located in the North. Do you know what the percentage of colored to white is in Illinois?

Mr. THOMAS. About 6 now, between 5 and 6.

Senator ELLENDER. Between 5 and 6. And here, according to this statement 5.4 percent nonwhites are employed in that industry. So if you want to go on a percentage basis, this entire industry of agricultural machinery and tractors located in the North employs about

the same proportion of colored as the ratio of the colored population compares with the whites. Then turning to the next page, "pulp paper and paperboard mills" of which we have many in the South, you will find here, according to your own statement, that in South Carolina, two out of every five workers in the industry are nonwhites, which represents about the proportion of white and colored in that State.

Now, I don't mean to say that the colored people get the same kind of jobs as do the whites. There is still some discrimination, as to the type of worker, but if a survey is made you are going to find that in those industries of which you complain, and in the records that you are trying to produce, the Labor Department records will show, that the percentage of nonwhites employed corresponds, to some extent, and very notably, to the percentage of whites and colored that live in the locality.

Mr. THOMAS. I will agree with you on that point, Senator, and I think we point out in our statement on page 10 that the crux of the problem is not just the difficulty in obtaining employment when times are good. Now, we say we have 58,000,000 people working. Some people can get a job of a sort but what we are complaining of is the systematic pressure of confining people to jobs, using as the only criteria the fact of race. If you will notice, in all these illustrations here, in each case, the statement is that they are employed chiefly in unskilled jobs. They are employed only as maintenance workers. They are limited to custodial service occupations. Now, this law would say to an employer that if the worker John X has the skill and ability to do job A you are discriminating against him if you don't give him a chance to do it.

Now, I think I have used too much of your time, gentlemen.

Senator ELLENDER. We did; not you. I want to say to this witness that I appreciate his testimony.

Senator DONNELLY. Yes; he has been very frank and very helpful.

Senator ELLENDER. If we had more of your attitude throughout this country, who had the interest of your race at heart, we would not have the trouble that we are now having.

Mr. THOMAS. There are lots of them, Senator.

Senator ELLENDER. I know, but there are also I would say "bullies" like Randolph who testified here the other day—men like that.

Mr. THOMAS. I would not call Mr. Randolph a "bully."

Senator ELLENDER. I do.

Mr. THOMAS. I don't see how you could call Mr. Randolph a "bully."

Senator ELLENDER. Well, I cite his march on Washington and the pressure tactics used by him to force our great President to issue that FEPC order. If that is not bullying, I don't know what I am talking about.

Senator DONNELLY. Do you have any further testimony?

Mr. THOMAS. I want to say that we think this is a reasonable bill. We had it out with the New York employers when the Ives-Quinn bill was introduced. We had constant conferences with them and raised all these questions about "What you are going to do is wreck our business." Now, it is a very great pleasure to sit down and talk with the vice president of the Metropolitan Life Insurance Co., which we tried for 30 years to persuade to employ just a few janitors and we

were not successful, despite the fact that the company had four times as much insurance on Negroes as all the Negro-owned companies in the United States. Now there are 150, perhaps 160, clerical workers employed, statisticians, one or two assistant actuaries; and the vice president says, "I don't know why we haven't done this before." But nothing was done on it until the Ives-Quinn bill became operative. Now, we are talking with the owners of department stores and the owners of banks about how this bill can be implemented effectively and I think they are pretty well convinced that it can be done without all the worry that they thought we would have, and my feeling is that the enactment of this bill and the administration of it, and implementation of it, as set forth in the bill, is not fraught with the dangers that we hear, and that it is a necessary step to move forward what we have begun in realizing the true way of the democracy which we have.

(Mr. Thomas submitted the following brief:)

STATEMENT OF THE NATIONAL URBAN LEAGUE FOR SOCIAL SERVICE AMONG NEGROES FOR THE SENATE SUBCOMMITTEE ON EDUCATION AND LABOR, UNITED STATES SENATE, JUNE 13, 1947, RE SENATE BILL S. 894, TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BECAUSE OF RACE, CREED, COLOR, NATIONAL ORIGIN, OR ANCESTRY

(Presented by Julius A. Thomas, director, department of industrial relations, New York City)

My name is Julius A. Thomas, and I am director of the department of industrial relations of the National Urban League, an interracial social-service agency working to improve the social and economic conditions under which the Nation's Negro population lives. The National Urban League maintains headquarters at 1133 Broadway, New York City. There are 66 local branches in 29 States and the District of Columbia. A southern field division office is located in Atlanta, Ga.

Since its organization in 1910, the Urban League has concentrated its efforts on problems of employment, housing, family security, and community relations. The league recognizes that economic insecurity is a prime cause of social maladjustment among large segments of our population, particularly Negroes. It has given special attention to their needs with respect to training and employment opportunities. In the cities having local league branches, we provide a referral and counseling service for persons seeking employment. We work closely with employers, union representatives, and officials of government to favorably influence employment practices as they apply to Negro workers. We believe we have made a significant contribution to the progress that may be recorded in this field.

During the war and since, we have worked closely with all government agencies concerned with problems of Negro workers and veterans at Federal, regional, State, and local levels. The Department of Labor, the United States Employment Service, the Veterans' Administration, and the Veterans' Employment Service have frequently consulted our national and local offices regarding policies and procedures that would improve the quality of services afforded Negroes. The statement I am presenting reflects an organizational experience of 37 years devoted to the cause of democratic employment practices.

The position of the National Urban League with respect to legislation to prohibit discrimination against workers on account of race, religion, color, or national origin was reaffirmed at its annual convention held in St. Louis, Mo., September 23 to 28, 1946. The convention's action is recorded in this statement:

"RESOLUTION ON FAIR-EMPLOYMENT PRACTICES

"Whereas in the several States where fair-employment practices laws have been enacted, there is substantial evidence that notable success has been achieved in curbing discriminatory practices and widening employment opportunities for all persons; and

"Whereas since V-J day and the liquidation of the temporary Federal Fair Employment Practices Committee, thousands of minority workers are suffering because of unfair discrimination in employment; and

"Whereas there is every reason to believe that additional discriminatory policies and practices will deprive minority groups of their rightful status as American citizens and will also tend to increase racial tensions and conflict; and

"Whereas equality of opportunity for all Americans regardless of race, color, or creed cannot be achieved without a definite national policy of fair employment practices; Therefore, be it

Resolved, That this conference endorse and recommend the enactment of fair employment practice legislation on the Federal, State, and local levels."

The executive board of the National Urban League considered Senate bill 984 in its regular monthly meeting held on June 9, 1947. I am directed to include in this statement their unqualified approval and endorsement of the bill. In our judgment, it meets the requirements of sound Federal legislation to accomplish the objective for which we are working "to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry." We respectfully urge your favorable action on Senate bill 984.

We in the National Urban League believe firmly that the majority of the American people will never abandon the American Creed as expressed in the doctrine of equality of opportunity. Through the years, it has given meaning and direction to the lives of millions of Americans who, by their ingenuity and unceasing toil, have built the greatest Nation on earth. There is evidence, however, that large segments of our population do not enjoy the opportunity to freely participate in our vast economic development. These persons are conveniently classified as members of minority groups. They include: 13,000,000 Negroes, 3,000,000 Americans of Mexican and Spanish origin, 5,000,000 Jews, 22,000,000 Catholics, 6,000,000 aliens, and smaller members of other racial and religious groups in our midst.

In numerous ways they are frequently denied the opportunities and privileges commonly granted other American citizens. The most serious form of discrimination suffered by these groups is that which limits or restricts the jobs they are permitted to hold.

This statement describing the position of the Negro minority does not intend to exclude other groups similarly placed. Its limitations are not dictated by a lack of concern for their problems. Because the program of the National Urban League has been confined largely to the needs of Negroes, we believe we can discuss with greater competency their concern for the proposed measure to prohibit discrimination in employment.

It is recognized that the beginnings of the Negro wage-earners' problems are rooted in an iniquitous period in our national history. It is recognized, also, that in the intervening years between the end of slavery and the present period some progressive changes have occurred. We should like, therefore, to place further limitations on the scope of our presentation and bring to your attention certain facts that are more pertinent to the immediate issue. The specific periods to be considered are:

- I. The Negro in the labor force in 1940.
- II. The Negro worker during the war.
- III. The Negro worker since V-J day.

I. THE NEGRO IN THE LABOR FORCE IN 1940

At the beginning of 1940, according to the Sixteenth Census of United States Population, volume III, *The Labor Force*,¹ there were 2,036,795 employed Negro males and 1,542,273 employed Negro females. These totals represented roughly 90 percent of employable Negro males and 90 percent of employable Negro females. It will be noted that the percentage of unemployment among Negroes was high in spite of the relatively prosperous conditions that prevailed. Further examination of the Negro work force in 1940 reveal other facts that are extremely pertinent to the subject under consideration. Negro wage earners were concentrated in the unskilled, poorly paid jobs in every major occupational category; 41 percent of Negro males and 16 percent of Negro females were farm workers; 17 percent of Negro males and 6.5 percent of Negro females were industrial workers; 21.4 percent of Negro males and 0.8 percent of Negro females were laborers; 15.8 percent of Negro males and 70.3 percent of Negro females were service workers; 2 percent of Negro males and 0.9 percent of Negro females were clerical workers; 3.1 percent of Negro males and 5 percent of Negro females were proprietors, managers, and professional workers.

¹ Sixteenth Census of United States Population, vol. III, *The Labor Force*, pt. I, United States Summary (pp. 88 et seq.).

Additional facts regarding the distribution of Negroes in the work force in 1940 are presented in the following statement¹ released by J. C. Capt, Director of the Bureau of the Census:

"Striking differences between the occupations of whites and Negroes were shown in 1940 census statistics. Farmers, farm laborers, and other laborers constituted 82.2 percent of all employed Negro men and only 28.6 percent of all employed white men. Only about 6 percent of all employed Negro men, compared with approximately 30 percent of employed white men, were engaged in professional, semiprofessional, proprietary, managerial, and clerical or sales occupations. Skilled craftsmen represented 15.6 percent of employed white men and only 4.4 percent of employed Negro men. More than half of the Negro craftsmen were mechanics, carpenters, painters, plasterers and cement finishers, and masons.

"Equally large differences are shown between the occupations of white and Negro women. Almost 70 percent of employed Negro women, as compared with 22.4 percent of employed white women, were engaged in service occupations. Clerical and sales workers constituted almost one-third of employed white women but only about 1 percent of employed Negro women. The proportion of employed white women who were operatives (20.3 percent) was more than three times that for employed Negro women (6.2 percent). Almost 16 percent of employed Negro women and only about 2 percent of employed white women were farmers or farm laborers.

"Statistics on the occupational distribution of Negroes and members of other nonwhite races are especially important at this time in connection with the current effort to meet labor shortages in essential war production through the elimination of hiring practices which have discriminated against the employment of minority racial groups. These figures focus attention upon differences among occupations in employment opportunities for members of minority groups. They show, for example, that employment opportunities for Negroes were extremely small in skilled-craft occupations as a whole, since Negroes constituted only 2.6 percent of all men employed in this major group. In certain specific craft occupations, however, opportunities for Negroes were much greater. For example, of all men employed as plasterers and cement finishers, molders, and masons, 14.8, 7.9, and 7.2 percent, respectively, were Negroes."

Any additional comment on the reports quoted in the preceding paragraphs would, I am sure, belabor the point. It is sufficient to observe that in 1940 employment opportunities for the masses of Negroes were extremely limited, resulting in a much higher concentration in jobs at the bottom of the economic ladder.

II. THE NEGRO WORKER DURING THE WAR

Total warfare demanded the fullest possible utilization of the Nation's resources, both human and material. The need for workers in our vastly expanded manufacturing plants as well as in the armed forces precipitated a condition favorable to greater employment opportunities for Negroes and other members of minority groups. This could not be accomplished, however, without forthright action by the President of the United States. The issuance of Executive Order 8802 and the revised Order 9436 was the President's answer to the stubborn determination of many holders of war contracts to exclude Negro and other so-called undesirables from their labor forces. Briefly, I want to tell you what happened to Negro wage earners during the war period. One million of these workers were added to the work force in addition to the one million one hundred and fifty thousand Negroes inducted into the armed forces. It should be pointed out, however, that the majority of Negro war workers were not employed in industrial plants engaged in the production of consumer goods before the war. Their services were used primarily in strictly war production plants manufacturing munitions, ordnance, aircraft, and other essential items. For example, there were close to 200,000² Negro workers in shipbuilding, 119,000 in aircraft and aircraft parts production, 103,000 in basic metals and rubber industries, and 100,000 in other munitions and metallic non-munitions at the peak of the war production program. At the same time, there

¹Occupations of Whites, Negro, and Other Racial Groups, for the United States, March 1940, U. S. Department of Commerce, Bureau of the Census, Sixteenth Census of the United States; 1940, series P-16, No. 6.

²Report of the Division of Review and Analysis, Committee on Fair Employment Practices, July 1944.

was a sharp increase in the number of Negroes employed in service jobs vacated by men and women entering the military service. Unemployment among Negroes in most sections of the Nation practically disappeared, and, for the first time in the Nation's history, industry opened its doors to skilled and technically trained Negroes.

The National Urban League and its local branches had a significant part in many of these changes. I am mentioning one or two outstanding examples primarily to demonstrate what can be done to remove racial discrimination when there is sufficient motive to do this. I shall omit from this statement the names of the companies involved, but I shall be glad to open our records to this committee or refer its members to proper officials of these companies.

Case A

This company manufactures communications equipment. Normally, it employs in several large plants between 60,000 and 75,000 workers. Before the war the number of Negro workers was negligible—less than 300. Realizing the necessity for enlarging its sources for capable workers, the management in the early months of the war considered the use of Negro production workers. The personnel director requested the help of the Urban League in changing its personnel practices and setting up procedures to facilitate the employment of Negroes. Urban League staff members conferred frequently with company officials, assisted in the selection of competent workers, and otherwise advised the management on minor problems which arose from time to time. At peak production this company employed 8,000 Negroes in production jobs of every degree of skill. Since VJ-day, this company has decreased its work force by several thousand workers, but there are now nearly 5,000 Negroes on pay rolls of its several plants.

Case B

This company is engaged in the production of precision instruments used by the Navy, the Army, and the Air Corps. Before the war only a handful of Negro janitors were included in its work force of some 3,000. Under the pressure of labor shortages, the company had to recruit Negro workers. Because of the technical nature of work to be done, the company required persons with above-average training and ability. Before VJ-day 1,200 Negro workers were among the 33,000 that comprised its efficient work force. The company's peacetime operations have been sharply reduced and the Negro work force has been all but eliminated because of their lack of sufficient seniority.

In the 4-year period during which the largest number of Negro workers were employed in hundreds of plants throughout the Nation, members of the staff of the national and local urban leagues made frequent plant visits to determine, among other things—

- (a) The nature of the problems created by the large-scale use of Negroes in industries which did not employ them before the war;
- (b) The rate of adjustment to new employment patterns with special reference to racial and group relations; and
- (c) The performance of Negro workers in their new jobs.

The results of our inquiries are set forth, in part, in the report which I desire to include in this statement, "Performance of Negro Workers in Three Hundred War Plants, National Urban League, February 1945." (Note: Because of the limited number of this report available, they can be distributed only to the members of the subcommittee.)

As a result of the extensive research done by the Urban League and other organizations concerned with this problem, we can draw a few conclusions which should be helpful to this committee:

First, A decided majority of employers who employed Negro workers for production jobs during the war found them to be conscientious, dependable, and efficient.

Second, The large-scale employment of Negro workers in industry does not present problems of race conflict or lowered morale when proper personnel policies and practices are adopted.

Third, That labor unions can and do establish democratic membership policies when circumstances require them to do so.

III. THE NEGRO WORKER SINCE VJ-DAY

In the 22 months since the end of World War II, Negro workers have faced a situation entirely different from that which obtained during the war. In the first place, they were concentrated in those war industries which suffered the

most severe cut-backs—shipbuilding, aircraft, munitions. Consequently, their rate of displacement was higher than the rate for other workers; secondly, the end of manpower controls, including the wartime FEPC, opened the door for the revival of discriminatory employment practices; thirdly, the employment fields which absorbed a substantial proportion of displaced war workers (trade and commerce) have been traditionally closed to Negroes except in certain low-paid job categories. This combination of unfavorable circumstances has produced an increasing surplus of Negro workers out of proportion to the total number of unemployed persons.

Unemployment among Negroes in some sections of the country is two to three times the rate for other workers. On the west coast, 80 percent of the Negro population are unemployed—three times the rate of unemployment among other workers. In New York City, it is reliably estimated that 15 percent of the 500,000 workers now seeking jobs are Negroes. In most of our larger industrial centers, the number of Negro job seekers is steadily increasing despite the fact that we have the largest peacetime work force in the Nation's history.

The crux of the problem is not so much the difficulty in obtaining employment when times are good as it is the refusal of employers to employ Negroes for the jobs they are qualified by training and experience to fill. This exclusion from certain fields of employment and certain types of jobs has become so widely accepted that it is not uncommon to find racial labels on jobs. One purpose of the proposed legislation is to eliminate this unfair labor practice by limiting job specifications to skill, experience, and ability to do the job.

To illustrate how this custom has influenced employment policies in industry and business, I want to call attention to a series of labor market reports prepared and distributed regularly by the Department of Labor through the United States Employment Service.

From the report for April 1947 on agricultural machinery and tractors, page 22:

"The industry offers few job opportunities to nonwhites. They constituted but 5.4 percent of total employment in March, substantially the same proportion reported since October 1946. They are employed chiefly in unskilled jobs. One State, Illinois, accounted for almost three-fourths of the industry's reported non-white employment."

From the same report, pulp, paper, and paperboard mills, page 12:

"The number of nonwhite workers in the industry has kept pace with the increase in over-all employment. Nonwhites constituted but 0.5 percent of total employment in March, the same proportion reported in the two preceding months. Only in the Southern States, where about five-sixths of the industry's nonwhite workers are employed, do they constitute a large proportion of the labor force. In South Carolina, two out of every five workers in the industry are nonwhite. They are employed chiefly in unskilled jobs."

The September 1946 report on the hosiery industry, page 14, states:

"Few opportunities exist for nonwhites who constituted only 2 percent of employment. Except for a very few establishments in Tennessee which reported nonwhites in production jobs, the vast majority of nonwhites were used as maintenance workers."

In the same report on banking and trust companies, page 86:

"The proportion of nonwhites probably will not rise above 2 percent. Restrictions against the employment of nonwhites are frequent in the banking industry, and there is no indication of any change in policy. With the exception of banks serving predominantly nonwhite communities, the use of nonwhites is limited to custodial and other service occupations."

The October 1946 report, series 15-2, on prefabricated housing, page 2, includes the following statement:

"So far as can be determined, nonwhites are hired almost exclusively for unskilled and maintenance jobs. In August and September, nonwhites comprised 0 percent of total employment."

The same report on the telephone communications industry, page 25, says:

"The number of nonwhites employed in the industry is insignificant, and they are almost always assigned to work as janitors, porters, and food handlers."

The April 1946 report on railroad equipment, page 5, states:

"Nonwhite workers employed in the industry are usually restricted to the heavy work in the foundry or to unskilled laborers' tasks and constitute about 10 percent of the total employment. In some of the larger plants, a few such workers are utilized in semiskilled occupations such as bulldozer operator, riveter, bolter-up, and acetylene burner."

The November 1946 report on bakery products, page 11, says:

"Employment of nonwhites remained stable between August and October at 6,800. A number of employers indicated that separations of workers in this group were unusually high and replacement needs considerable. Nonwhites constitute 8.2 percent of the work force in bread and cake bakeries and 7.7 percent in cracker and biscuit firms. They are usually employed, however, only as porters, janitors, dishwashers, and pan greasers."

I have gone into some detail to define the problem which this legislation proposes to resolve because I believe the members of this committee and a negligible minority of the American people appreciate fully the difficulties faced by Negroes in their efforts to obtain employment. I want you to know that we do not believe the systematic discrimination against these workers must forever be the rule in American industry and business. Nor do we believe that the American people approve the arbitrary exclusion of American workers from decent jobs merely because of their race or religious beliefs.

Antidiscrimination laws now in force

It is known to this committee, I am sure, that four States (New York, New Jersey, Massachusetts, and Connecticut) have recently enacted legislation very similar to the measure now under consideration. Since the Urban League is actively engaged in the work of directing job seekers to job openings, and because members of our board and staff are frequently requested to advise and counsel employers and labor-union officials regarding the operations of the law, I believe our observations on the desirability and effectiveness of these measures will be helpful to this committee. It is a fair statement, I think, to say that the majority of reasonable employers and union officials are making sincere efforts to comply with the law. It can be said also that in the scores of industrial and commercial establishments which have changed their employment policies since these laws became operative, the employment of qualified Negroes, Jews, and other groups formerly excluded from their work forces has not adversely affected either the morale of their workers, the productivity of their enterprises, or the attitudes of their customers. These are the criteria by which the average employer determines whether or not his industry or business is functioning at top capacity. These are the assurances most employers demand when we discuss the question with them.

The problem that confronts us now is not one of deciding whether or not we want to eliminate unfair discrimination in employment, but one of choosing the most effective means of accomplishing it. It is our considered judgment that the enactment of Senate bill 984 is a step in the right direction. We believe that the provisions of this bill are reasonable and fair to employers, labor unions, and job seekers alike. We believe this because the measure recognizes that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and equality of opportunity, section 2 (a); it recognizes and declares the right to employment without discrimination because of race, religion, color, national origin, or ancestry to be a civil right of all the people of the United States, section 2 (b); it clearly defines unlawful employment practices, section 5; it establishes proper and effective machinery for fairly administering the law, section 6; it provides for reasonable and workable procedures for preventing unlawful employment practices, section 7; and, finally, it sets up the necessary guaranties against abuses by establishing fair and impartial methods for review of the Commission's findings and decisions, section 8.

We appreciate the opportunity to present our views and opinions on this important measure. On behalf of the executive board and officers of the National Urban League and of its 86 local branches throughout the country, let me say again that we endorse without reservations Senate bill 984. We urge this committee to report favorably on it.

Senator DONNELL. Thank you very much, Mr. Thomas. We greatly appreciate your testimony.

Our next witness is Rev. Robert W. Searle, executive secretary of the Protestant Council of the City of New York. Do you have a statement, Mr. Searle?

STATEMENT OF THE REVEREND ROBERT W. SEARLE, EXECUTIVE SECRETARY OF THE HUMAN RELATIONS COMMISSION, PROTESTANT COUNCIL OF THE CITY OF NEW YORK, NEW YORK, N. Y.

Reverend SEARLE. I have filed a brief with the clerk, Senator.

Senator DONNELL. Mr. Searle, will you please state your full name and address and something of your background educationally and by way of experience?

Reverend SEARLE. I am Rev. Robert W. Searle, director of humanity relations of the Protestant Council of the City of New York, which is a representative body of all Protestant Churches in the five boroughs of the city, and I am executive secretary of the human-relations commission, which is a body especially set up by the council to deal with problems of human relations in the general field.

I am an ordained Presbyterian clergyman, having been in the ministry since 1928. I graduated from Oxford University and from Union Theological Seminary.

Senator DONNELL. Has your organization, the Protestant Council, had some type of formal meeting at which it considered the bill now before us?

Reverend SEARLE. This commission, the human relations commission, has regular stated meetings. At its April meeting it took up the bill, considered it very carefully, and unanimously endorsed it.

I have appended to my statement a list of members of the commission, which I think is a rather important document, to show the caliber of the minds that have considered this thing. They are such men as a former president of the National Manufacturers Association, the president emeritus of Union Theological Seminary, the eastern commissioner of the Salvation Army, the president of Brooklyn College, a former commissioner of welfare of the city of New York, a former lieutenant governor of New York State—people of that caliber.

Senator ELLENDER. May I ask a question there, Reverend Searle? Is your council associated with the Federal Council of the Churches of Christ in America?

Reverend SEARLE. There is no actual connection, Senator Ellender. There is a cooperative connection. I understand that Dr. Boyd is here and will testify. I have submitted this document and I will simply highlight certain things that I say in it, if I may.

Senator DONNELL. That is Dr. Beverley Boyd?

Reverend SEARLE. Beverley M. Boyd; yes.

I wish to point out that the commission took its stand on three main bases.

First, the commission supports this act with deep conviction on the grounds of Christian principles. It is the teaching of Jesus Christ and of the New Testament that "God has made of one blood all men who dwell upon the face of the earth," that to every individual human being there is due the dignity which belongs to him as a child of God, that to every man there must be accorded justice and brotherhood.

Senator DONNELL. But, for my own information, is the quotation that you have read from the Scripture?

Reverend SEARLE. That quotation is from one of the Epistles of Paul.

The conscience of non-Roman Christendom around the world, of Protestantism and Eastern Orthodoxy, was clearly expressed by the following declaration unanimously adopted at the most representative ecumenical conference in the history of the church held at Oxford, England, in 1937:

The existence of black races, white races, yellow races is to be accepted gladly and reverently as full of possibilities under God's purpose for the enrichment of human life, and there is no room for any differentiation between races as to their intrinsic value. All share alike in the concern of God, being created by Him to bring their unique and distinctive contribution to His service in the world.

The commission supports this act in the second place, and again with deep sincerity, on the ground of American principle. We believe that the fundamental premise upon which the whole theory of American political, social, and economic structure rests is contained in the words of the Declaration of Independence:

We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

We believe, therefore, that we have also a clear mandate from American principle to advocate all measures which seek to accord their equal and unalienable rights to men.

We further believe that present circumstances demand unprecedented effort to vindicate our professed loyalty to the principles of American democracy by realizing these principles in our political, social, and economic life.

Democracy today is challenged on a world scale by a contrary way of life. Hundreds of millions of people in many nations are watching America and passing judgment on it as we live it—not as we profess it. They are judging us by our actions and our attitudes, not by our words and our documents. Our failures and our violations of professed principle are enlarged and bruited before these observing people as a condemnation, not of our human weakness but of democracy itself. I need not remind you, I am sure, that a majority of those who in these next years will be choosing between democracy and some form of totalitarianism are not members of the white race. We should constantly remind ourselves that it is reported by observers that Russia has made real progress in eliminating racial prejudice in a nation of many races. Whatever the truth of this report, it furnishes a challenge to American democracy.

May I add to that, on that very point. I am constantly contacting men coming back from all over the world from great mission stations of the church, and almost the first word that everyone says when he lands in the United States is that we must face this issue of race relations in America. Whether they are in the Philippines, whether they are in China, whether they are in India, whether they are in Africa, wherever they are, they are hearing constantly the publicity by those who want to undermine the belief in America, publicizing any little thing, any little deviation that takes place in American life from its professed standards of justice and brotherhood.

Senator ELLENDER. Don't you think a lot of that is exaggerated for the purpose of propagandizing the countries?

Reverend SEARLE. Of course, it is exaggerated, Senator Ellender, but always behind exaggeration there is enough basis of fact for the case to be made. Of course, the whole basis of propaganda is exaggeration.

It is on specific issues that we prove the reality of our belief in principles and ideals. I think one of our troubles has been in this western world that we profess greater ideals but want to keep them in the abstract.

As a Christian, I believe that the law of God is absolute.

Senator ELLENDER. What do you mean by that?

Would you say we have not looked forward in expressing our views? I think America has grown to the heights that it has without such laws as you are now proposing.

Reverend SEARLE. I think America has grown toward heights.

Senator ELLENDER. The whole world is looking to America for assistance today, and why an American should criticize its standards I cannot understand.

Reverend SEARLE. Well, we criticize it, not in comparison with other nations, but in comparison with the ideas that it professes.

Senator ELLENDER. But America is so far superior to all of the others in every respect.

Reverend SEARLE. But we are still inferior to our own standards.

Senator ELLENDER. We have made tremendous progress, in a short period of time, and it hurts my pride when I hear one of your education come here and in a measure criticize our methods, when admittedly we are the greatest Nation in the world. We are feeding the whole world and the whole world is looking to us now for sustenance, and why any American should criticize such benevolence is beyond me. I can't follow your conception on the grounds of Christianity or anything else. I just can't follow it.

Reverend SEARLE. Don't you think, though, that healthy criticism is the best means for progress?

Senator ELLENDER. Yes; I think so.

Reverend SEARLE. Don't you think that where one professes to be a Christian and accepts certain ideals, one has to constantly subject himself to self-criticism in order to reach those ideals? So must we in our church, and so must we in our collective thought.

Senator ELLENDER. Let me say this off the record.

(Off the record.)

Senator DONNELL. Now, we will continue on the record.

Mr. Searle has a question I believe.

Reverend SEARLE. As a Christian, I believe that the law of God is absolute—that it is immutable and inexorable and that therefore whenever we violate it, we bring trouble upon ourselves and our children.

The sins of our ancestors who kidnaped men, women, and children and sold them into slavery have already demonstrated that under the law of the universe the sins of the fathers are visited upon their children unto the third and fourth generation and beyond. That process will only stop when justice begins.

As to the specific—who can challenge the statement that the right of a man to seek work for which he is qualified is an unalienable human right which must, where men love justice, be established? It is essen-

tial to the support of life. It is essential to the experience of liberty, and it is essential to the pursuit of happiness.

I will not read what follows. It is simply supporting testimony to the way the law has worked in New York State. I was one of those who advocated the law. I talked with employers who saw all sorts of trouble. I remember one very specific conversation with an employer who said it was the right thing to do, but "there are so many obstacles in the way"; but he finally decided he would do it. Six months later I saw him and I asked him about the obstacles. He smiled and said they didn't materialize.

Senator ELLENDER. That was before the law was put on the statute books?

Reverend SEARLE. Yes.

Senator ELLENDER. Why not follow that practice?

Reverend SEARLE. Because, of 10 men that were interviewed, he was the only one that had the courage to do the thing I thought was right.

Senator ELLENDER. I think that men of your kind could do more good in New York City talking to the employers, as you have done, than trying to ram it down their throats.

Reverend SEARLE. We have had experience with both, Senator Ellender, we have talked to them. I talked with the Metropolitan Life Insurance people, with representatives of the Jewish faith and representatives of the Catholic faith. They admitted to us that it was the right thing to do, but they said they didn't dare do it because of their customers and because of their employees. Now, the law comes along and gives these timid souls something on which to stand. They can then say to their employees, "We are doing it because the law requires it." When they talk to their customers, "We are doing it because the law requires it."

There are a limited number of men that have the courage of their convictions in any group of society. Those men pioneer. The others need help.

Senator DONNELL. Have you anything further, Reverend Searle?

Reverend SEARLE. Just one thing more, if I may.

Senator Ellender raised the question awhile back, at the very beginning of the hearing, about white and colored young people meeting together, leading to marriage. Senator, for 20 years in New York City the Protestant young people of all churches have met regularly in a youth council for the city. There has been no intermarriage, no particular thought of it. It is a matter of individual taste, judgment, and choice, but there have been no repercussions from that at all. That would be unpleasant to either race.

Senator ELLENDER. What is the proportion of white and colored church members in New York?

Reverend SEARLE. On Manhattan Island, I suspect 50 percent of the Protestant church members are Negroes; and in the young peoples' group, it would possibly run 60 white to 40 Negro. And it has been my observation in the last 20 years, the number has increased. Now, they were sending delegates to the World Conference at Oslo, Norway, this summer. One is a Negro and one a white member.

Senator DONNELL. Thank you very much, Reverend Searle. We appreciate your statement.

Our next witness is Mrs. H. Wolfe, of the National Council of Jewish Women. Mrs. Wolfe, will you please state your name and address?

(The Reverend Searle submitted the following brief:)

STATEMENT FILED BY THE HUMAN RELATIONS COMMISSION OF THE PROTESTANT COUNCIL OF THE CITY OF NEW YORK ON THE NATIONAL ACT AGAINST DISCRIMINATION IN EMPLOYMENT

(Presented by the Reverend Robert W. Searle, D. D., secretary, June 18, 1947)

Mr. Chairman and members of the Subcommittee on Antidiscrimination Legislation of the Senate Committee on Labor and Public Welfare; I speak for the Protestant churches of New York City as the secretary of the Human Relations Commission of the Protestant Council of the City of New York, which is the official agency established by the churches to meet their common responsibilities.

May I indicate to you the important character of this commission by mentioning that among its members, a list of whom is filed with the brief, are such responsible citizens as its chairman, the bishop of the Protestant Episcopal Church of New York, the Right Reverend Charles K. Gilbert; the president emeritus of Union Theological Seminary, Dr. Henry Sloane Coffin; a former president of the National Manufacturers' Association, Mr. Howard Conoley; a former Lieutenant Governor of New York State, the Honorable Charles Poletti; the eastern commissioner of the Salvation Army, Ernest I. Pugmire; a former professor of philosophy at Harvard University, Dr. William Ernest Hocking; a former commissioner of welfare of the city of New York, the Honorable Leonard V. Harrison; and the president of Brooklyn College, Dr. Harry D. Glendon.

Our commission has carefully considered the National Act Against Discrimination in Employment and has unanimously voted its endorsement of this act.

The commission supports this act with deep conviction, first, on the grounds of Christian principle.

It is the teaching of Jesus Christ and of the New Testament that "God has made of one blood all men who dwell upon the face of the earth," that to every individual human being there is due the dignity which belongs to him as a child of God, that to every man there must be accorded justice and brotherhood.

The conscience of non-Roman Christendom around the world—of Protestantism and eastern orthodoxy—was clearly expressed by the following declaration unanimously adopted at the most representative ecumenical conference in the history of the church held at Oxford, England, in 1937 (I quote):

"The existence of black races, white races, yellow races, is to be accepted gladly and reverently as full of possibilities under God's purpose for the enrichment of human life. And there is no room for any differentiation between races as to their intrinsic value. All share alike in the concern of God, being created by Him to bring their unique and distinctive contribution to His service in the world.

"The gift can be, and is, abused. The sin of man asserts itself in racial pride, racial hatred and persecution, and in the exploitation of other races. Against this attitude in all its forms, the church is called by God to set its face implacably and to utter its word unequivocally both within and without its own borders."

We believe, therefore, that we have a clear mandate from Christian principle to advocate all measures which seek to accord equal rights and dignity to men.

The commission supports this act, in the second place, and again with deep sincerity, on the ground of American principle. We believe that the fundamental premise upon which the whole theory of American political, social, and economic structure rests is contained in the words of the Declaration of Independence: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

We believe, therefore, that we have also a clear mandate from American principle to advocate all measures which seek to accord their equal and unalienable rights to men.

We further believe that present circumstance demands unprecedented effort to vindicate our professed loyalty to the principles of American democracy by realizing these principles in our political, social, and economic life.

Democracy today is challenged on a world scale by a contrary way of life. Hundreds of millions of people in many nations are watching America and passing judgment on it as we live it—not as we profess it. They are judging us by our

actions and our attitudes, not by our words and our documents. Our failures and our violations of professed principle are enlarged and brutalized before these observing people as a condemnation, not of our human weakness but of democracy itself. I need not remind you, I am sure, that a majority of those who in these next years will be choosing between democracy and some form of totalitarianism are not members of the white race. We should constantly remind ourselves that it is reported by observers that Russia has made real progress in eliminating racial prejudice in a nation of many races. Whatever the truth of this report, it furnishes a challenge to American democracy.

Gentlemen, it is on specific issues that we prove the reality of our belief in principle and ideals.

As a Christian, I believe that the law of God is absolute—that it is immutable and inexorable and that therefore whenever we violate it, we bring trouble upon ourselves and our children.

The sins of our ancestors who kidnaped men, women, and children and sold them into slavery have already demonstrated that under the law of the universe the sins of the fathers are visited upon their children unto the third and fourth generation and beyond. That process will only stop when justice begins.

As to the specific—who can challenge the statement that the right of a man to seek work for which he is qualified is an unalienable human right which must, where men love justice, be established. It is essential to the support of life. It is essential to the experience of liberty, and it is essential to the pursuit of happiness.

You are, therefore, in this act contemplating the attempt to establish for citizens of the United States what is their unalienable right.

As to its practicality—a few years ago, thanks largely to the efforts of the distinguished junior Senator from New York, in New York State there was established a State commission against discrimination. At the hearings on this measure, hearings at which it was my privilege to testify, we heard many dire predictions about the troubles and difficulties which the proposed law would bring into our social and economic life. That law has been in force for 2 years, and the commission it established has done its job well, relying in the main on persuasion. To the best of my knowledge, and I have tried to observe closely, none of the dire predictions has come true. On the other hand, the law has gone far to help establish a basic justice and an elemental right.

Gentlemen, in behalf of the Protestant churches of New York City, in the name of religious and American principle, for the vindication of democracy, and because of its demonstrated practicality, we appeal to you to make this National Act Against Discrimination in Employment the law of the land.

LIST OF MEMBERS OF THE PROTESTANT COUNCIL OF THE CITY OF NEW YORK

- Mrs. Yorke Allen, secretary, the Protestant Council.
- The Reverend Russell Frank Auman, pastor, St. Peter's Lutheran Church.
- Prof. John C. Bennett, department of Christian ethics, Union Theological Seminary, New York.
- The Reverend Henry Stoen Coffin, D. D., president emeritus, Union Theological Seminary.
- Mr. Howard Coonley, former president, National Association of Manufacturers, chairman of the board, Walworth Co.
- The Reverend Phillips P. Elliott, D. D., minister, First Presbyterian Church, Brooklyn, N. Y.
- The Reverend Harry Emerson Fosdick, D. D., pastor emeritus, the Riverside Church, New York.
- Dr. Harry D. Gideonse, president, Brooklyn College.
- The Right Reverend Charles K. Gilbert, bishop of the Protestant Episcopal Diocese of New York.
- The Honorable Leonard V. Harrison, former commissioner of welfare, New York City, director, committee on youth and justice, the Community Service Society.
- Mrs. Ellmore M. Herrick, New York Herald Tribune.
- Dr. William Ernest Hocking, former head of philosophy department, Harvard University.
- The Reverend Leland B. Henry, director of Christian social relations, the Protestant Episcopal Diocese of New York.
- Mrs. Henry A. Ingraham, president, International Council, Young Women's Christian Association.

Prof. F. Ernest Johnson, Teachers College, Columbia University; director, department of research and education, Federal Council of Churches.
 Dr. Waldemar Kaempfert, science editor, the New York Times.
 Dr. Edward C. Lindeman, New York School of Social Work.
 The Reverend E. J. Mollenauer, pastor, St. John's Evangelical Lutheran Church.
 The Honorable Charles Poletti, former Lieutenant Governor, State of New York.
 Commissioner Ernest I. Pugmire, commissioner of the eastern area, the Salvation Army.
 Mr. Roy M. D. Richardson, Root, Ballantine, Harlan, Bushby & Palmer.
 Mr. Mefford R. Runyon, executive vice president, Columbia Recording Corp.
 The Reverend Ralph W. Sockman, D. D., pastor, Christ Church, Methodist.
 The Reverend Samuel H. Sweeney, D. D., pastor, St. Mark's Methodist Church.
 The Reverend John H. Warnshuis, D. D., pastor, Brighton Heights Reformed Church, Staten Island.
 The Reverend Robert F. Welskotten, pastor, St. John's Lutheran Church, Queens.

**STATEMENT OF MRS. H. WOLFE, RICHMOND, VA., REPRESENTING
 THE NATIONAL COMMITTEE ON EDUCATION AND SOCIAL ACTION
 OF THE NATIONAL COUNCIL OF JEWISH WOMEN**

Mrs. WOLFE. I am Mrs. H. Wolfe, 118 Central Road, Richmond, Va. Senator ELLENDER. And you are an official in the National Council of Jewish Women.

Mrs. WOLFE. I am a member of the national committee on education and social action.

Senator DONNELL. And that is a committee of the National Council of Jewish Women?

Mrs. WOLFE. Yes.

Senator DONNELL. How large an organization is the National Council of Jewish Women?

Mrs. WOLFE. We have 65,000 members in all, in practically every State in the United States, in 215 communities.

Senator DONNELL. Has that council passed any resolution—taken any formal action with respect to the matter of discrimination in employment?

Mrs. WOLFE. We passed a resolution at our last triennial convention, which was in October 1946, held at Dallas, Tex. If you would like me to read this into the record, I can; or if you prefer to have me read it for the record, I will do so.

Senator DONNELL. How long is it?

Mrs. WOLFE. It is very brief.

Senator DONNELL. Just read it, then.

Mrs. WOLFE. This is a resolution on intergroup relations. The booklet is called Resolutions Adopted or Reaffirmed at the Eighteenth Triennial Convention. [Reading:]

Be it resolved, That—

Whereas our democracy is enriched by the contributions of all racial, religious, and cultural groups; and

Whereas discrimination violates the fundamental principles of our Constitution and creates hardship and industrial strife; Therefore be it

Resolved, That the National Council of Jewish Women rededicate itself to the support of interracial and intercultural education programs, community action, and legislative measures designed to oppose discrimination, to improve human relations, and to safeguard the rights and privileges of all people.

Senator DONNELL. That is the latest expression of your organization with respect to matters of discrimination?

Mrs. WOLFE. Yes, sir.

Senator DONNELL. Will you proceed with your testimony?

Mrs. WOLFE. The National Council of Jewish Women, with a membership of 65,000 women in 215 communities throughout the country, urges the passage of the antidiscrimination bill, S. 984, now under consideration by this committee. We believe that so long as any American is kept from making a living because of his race, religion, or national origin, our country cannot be completely free, or its people economically secure.

During the war years, the Fair Employment Practice Committee was established to make certain that a labor force made up of all of the available manpower, regardless of race or creed, would be mobilized to produce the materials of war. The phenomenon of American production during the war was not only indicative of our technical achievement but proved to us and the rest of the world that people of many races, religions, and nationalities could work together toward a common goal.

The need for protection against discrimination in employment is even greater today than it was during the war. Despite the fact that all of us recognize the need for expanded production, there is a noticeable trend toward a contraction of employment. It is a proven fact that in a declining labor market, members of minority groups are the first to be discharged. Unless Government safeguards are established, this trend will not only mean a dislocation of our economy, but will also heighten tensions among the various groups in the community. At a time when democracy is literally on trial throughout the world, the United States must show by example that economic discrimination and racial and religious prejudice have no place in a democratic society.

The United States, as a leader in international affairs, is under scrutiny by the nations of the world. If, in our treatment of our minority groups, we negate the principles of the United Nations Charter by which we are pledged to—

promote universal respect for and observance of human rights and fundamental freedoms for all, without distinctions to race, sex, language, or religion—

we shall lose the respect of freedom-loving people everywhere. We shall sacrifice our moral right to world leadership.

As an organization representative of a so-called minority group, the National Council of Jewish Women naturally has a special interest in any measure that will guarantee equal employment opportunities to all people. We want to protect our children from the employment discrimination which has been the experience of our generation. We do not believe that it is in keeping with the American way of life for any person to be barred from the occupation of his choice because of his color or his religion, or the country from which his parents came. Discrimination of this kind is not only unfair to us and our children, but it is also inimical to the best interests of our Nation, which is being deprived of talents and abilities it cannot afford to lose.

But the National Council of Jewish Women is not concerned with S. 984 simply as a bill to aid minority groups. The educational and legislative program of our organization is directed toward securing

a better life for all people, Jew and Christian, Negro and white. As an organization which has served the American community for over 50 years, we have learned that poverty, disease, and discontent cannot be isolated.

In our work in our towns and cities we have seen very graphically the results of discrimination in employment. We know that the slum areas of our towns and cities generally contain large numbers of people who belong to a racial or national minority. We know that their children do not have adequate medical care, recreational facilities, or educational opportunities. We know that if their living conditions are improved, our communities would be healthier and more prosperous. Equality of opportunity for all must become more than a catchword. It must become a living part of our democracy if we are to build a prosperous and healthy America.

To those people who believe that discrimination cannot be legislated out of existence, we point to the records of those States which have had antidiscrimination legislation in effect for the past few years. The New York State Commission Against Discrimination, for example, has been able, through the cooperation of labor and management, to solve many of the problems of discrimination that arise, with a minimum of coercion, with the result that discriminatory practices are on the wane in New York State. Other States can show the same results.

However, the only way to insure freedom of economic opportunity at this time to all our citizens is by creating a National Government agency to assure fair employment practices and nondiscrimination. The National Council of Jewish Women urges this committee to report favorably on S. 984, which guarantees these basic rights.

Senator DONNELL. Mrs. Wolfe, you say you live in Richmond, Va.?

Mrs. WOLFE. Yes, sir.

Senator DONNELL. How long have you lived there?

Mrs. WOLFE. Twelve years.

Senator DONNELL. And where was your home before that?

Mrs. WOLFE. Baltimore, Md.

Senator DONNELL. You are a native of Baltimore?

Mrs. WOLFE. Yes, sir.

Senator DONNELL. How long have you been associated with the National Council of Jewish Women?

Mrs. WOLFE. Twelve years.

Senator DONNELL. Are you employed by that organization?

Mrs. WOLFE. No, sir.

Senator DONNELL. You are one of the officers, are you?

Mrs. WOLFE. No, sir; I am a member of the national committee on education.

Senator DONNELL. But you are not an officer of the organization?

Mrs. WOLFE. No, sir.

Senator DONNELL. But you think you speak the sentiments of the organization and have quoted the resolution here as the official pronouncement of that organization?

Mrs. WOLFE. That is correct.

Senator DONNELL. Thank you very much, Mrs. Wolfe, for your testimony.

Our next witness is Rev. Sandy F. Ray, National Baptist Ministers Conference.

Will you please state your name and address?

STATEMENT OF THE REVEREND SANDY F. RAY, CHAIRMAN OF THE SOCIAL SERVICE COMMISSION OF THE NATIONAL BAPTIST CONVENTION, U. S. A., INC.

Reverend RAY. My name is Sandy F. Ray. I live at 840 Putnam Avenue, Brooklyn, N. Y.

Senator DONNELL. Are you one of the officers of the National Baptist Ministers Convention?

Reverend RAY. Yes; I am. I am chairman of the social-service commission of the National Baptist Convention. The social-service commission of the National Baptist Convention is a department which has to do with matters of public relations.

Senator DONNELL. Is the National Baptist Convention composed specifically, exclusively, of all churches the members of which are Negroes, or is it a Baptist organization which is composed of both whites and Negroes?

Reverend RAY. They are all Negroes.

Senator DONNELL. How large is the membership?

How large a membership do the churches have that compose the National Baptist Ministers Conference?

Reverend RAY. They vary.

Senator DONNELL. I mean in the aggregate?

Reverend RAY. The aggregate membership of the convention?

Senator DONNELL. Yes.

Reverend RAY. 4,076,380. That is according to our national report.

Senator DONNELL. Are they largely in the South?

Reverend RAY. Well, they are distributed; I would say about 75 percent of them in the South.

Senator DONNELL. That is, south of Mason and Dixon's line?

Reverend RAY. Yes, sir.

Senator DONNELL. Has your organization passed any resolutions with respect to matters of discrimination in employment?

Reverend RAY. It did, Senator, pass a resolution, not referring particularly to this legislation, but it did pass a resolution authorizing the commission to act in all matters pertaining to matters of this sort, public relations, and it did anticipate the introduction of bills on FEPC and antilynching and authorized the commission to act in case those bills were introduced, and the president sent a letter dated June 30 urging me to appear before the committee here today in behalf of this bill. I have his letter.

Senator DONNELL. You may proceed with your statement.

Reverend RAY. The National Baptist Convention was organized in Montgomery, Ala., in 1880. Our statistical report for 1944 gave a membership of 4,076,380. The convention has 23 boards and commissions, which operate in various areas of our denominational life. The social-service commission of the convention is its department of social education and action. This commission is authorized to work with other groups outside our own denomination, for the general good of all humanity, and the construction of a sound and stable world order. The convention meets annually in different sections of the United States, with delegates from the several State conventions, district associations, and local churches.

I might say here that the convention has 33 State conventions. It covers the entire United States. There are some small States that are

combined in State conventions. It has 507 district associations within those several States.

Senator ELLENDER. Would you say 75 percent of your membership comes from the South?

Reverend RAY. From the South; yes.

Senator ELLENDER. And you are from Brooklyn?

Reverend RAY. I am from Brooklyn.

Senator ELLENDER. Were you born there?

Reverend RAY. I was not born there. I was born in Texas.

Senator ELLENDER. Why has the organization selected you to make a statement. Do you know?

Reverend RAY. Up until September of last year, at the time of our meeting in Atlanta, a man by the name of J. V. Adams, of Brooklyn, was serving as chairman of this commission.

I was selected by the convention to succeed him. It happens that I live in Brooklyn.

It is exceedingly unfortunate that any group of citizens of a Nation, founded upon the philosophy of human freedom and equality of opportunity, should find it necessary to appeal to the lawmakers of such a nation for the passage of legislation demanding justice, which is provided under the Constitution. I am before you, representing four millions of the largest minority group in America. We have long borne the shackles of economic slavery, and yet we have remained loyal to our Government. We have remained loyal because we believe sincerely that our Nation is, indeed, a land of promise.

We believe that America has a special mission in the realm of international reconstruction. We believe that only a thoroughly unified, strong, consistent America can give vital and permanent leadership, in the building of a stable world order. We do not believe that peace is possible without justice, and there is no real justice until democracy becomes a functioning reality for all citizens in America.

The right to work and to earn according to one's skill is a basic right in a democracy. It is that right which we now seek. When undemocratic elements deny citizens that right, they rob them of their real citizenship, and force them out on the outer fringes of a democratic society. They force them into areas of hunger, disease, ignorance, and to death.

We appeal to you, because as elected representatives of the people of this Nation, you have the power to make the provisions of the Constitution operative in all areas of our democratic society. We are not fascinated by, nor are we depending upon any foreign philosophy of government to deliver us. We feel that our hope is in the American way. We feel that a sense of justice and real democracy is alive in most Americans.

In asking a favorable report of you gentlemen on Senate bill 984, we are not thinking of Negroes in the U. S. A. alone. We are interested in the elimination of discrimination in employment for all citizens of the U. S. A., regardless of race, color, national origin, or religion.

We have demonstrated our military strength on foreign fields. We must now demonstrate our moral and spiritual strength at home. All citizens of America fought together to win a military victory over our common enemies. We must now work together to conquer and banish forever that brazen enemy, discrimination.

We believe that the passage of Senate bill 984 would be one of the greatest steps toward national unity possible. It would have cement-

ing effect throughout the Nation. It would curb the spread of foreign philosophies and disunifying propaganda. It could force labor unions to extend membership privileges to all laborers. It would inspire hope and faith in a large segment of the citizenship of this Nation. It would say, in no uncertain terms, that America is the America of the Constitution.

Senator DONNELL. Might I interrupt you just a moment? There has been a very interesting experiment made in your own city in the baseball world. As I understand it, there is a colored man on the Brooklyn Dodgers. Have you had occasion to investigate how that has been generally received among the people of Brooklyn, and generally speaking, among the devotees of the sport, baseball?

Reverend RAY. I have attended several of these games and I have purposely sat among white people to get their reaction to Jackie Robinson. I found that there was some little unfavorable reaction, but generally the reactions were favorable. I found also that in many instances these people, both white and Negro, were actually pulling more for Jackie than they were for the whites. There was one team, as you probably recall, that there was some little talk of their not even playing against the Brooklyn Dodgers because of Jackie Robinson being on the team, but it was soon cleared up, and of course the game went on.

The team mates of Jackie Robinson were just a little bit indifferent toward him at first, but I understand now he has been accepted as just another member of the team. There is absolutely no difference made so far as Jackie is concerned.

Senator DONNELL. Mr. Griffith was largely instrumental in the introduction of the colored member of the team, was he not?

Reverend RAY. Yes, sir.

Senator DONNELL. Proceed with your statement.

Reverend RAY. We believe that a segregated minority has a moral right to prod a dominant majority in a democratic society, when that majority fails to force the functioning of the principles of democracy for all of the citizens of the society. We recognize, with great pride, the opportunity which our Nation has to spread democratic thinking to the battle-scarred, baffled, and bewildered nations of the earth, but we do not have the moral right to demand democracy elsewhere, until we make it real for all of our citizens at home.

Senator DONNELL. I referred to the Brooklyn Dodgers, the baseball team, as an experiment. I do not know that it is an experiment. I should withdraw that word and say it is something that has been introduced in the team. However, that is what I meant.

Reverend RAY. It is indeed an experiment.

Senator DONNELL. I didn't know whether it was considered any experiment or whether it was the permanent policy of the owners of the team.

Reverend RAY. But it is working out very satisfactorily, according to Mr. Griffith.

We believe that the practical expression of justice is the Golden Rule—"as ye would that men should do unto you, do ye even so unto them."

This is the key to a functioning democracy. This was the dream of the founding fathers. This is the hope for an abiding society. Our blood went into the purchase of our military victories; our brain and brawn helped to turn the wheels of industries, to produce mate-

rials. Our money flowed freely into the Treasury for stamps and bonds; our prayers ascended constantly to the Almighty God for all enlisted men and for the leaders of our Nation, and now we hope for a real America, the America of the Constitution, the America of the patriot's dreams, the America which we are capable of becoming: "One Nation indivisible, with liberty and justice for all."

Gentlemen, the realization of that hope is dependent upon your attitude and action as representatives of the people of this Nation. If you believe that every citizen should have the right to employment without discrimination because of race, color, national origin, or religion, you have the opportunity to shout it to the Nation through this legislation.

If you believe that this Nation can endure, half slave and half free, you can say so by rejecting this legislation.

This legislation, gentlemen, is not political, it is moral, it is spiritual. It is concerned with the dignity of human personality. It is concerned with basic human rights.

The time has come, we believe, that this Nation must speak to its own citizens, those citizens who do not see, or pretend not to see, the democratic light. We are lighting torches of democracy throughout the world, but we must fan the flickering flames at home.

We believe that "swords can be beaten into plowshares, and spears into pruning hooks." We believe that the instruments which are built for brutality, butchery, and barbarism may be turned into instruments of production and moral and spiritual development.

A working, earning, producing citizenship in America is our only hope for domestic peace. The recent war forced us into some advances in the field of employment. We showed then, what America can do in a national emergency. We can now show what a free people can do together without pressure of war. We can now prove that America is more than a name.

America is a spirit; America is an ideal; America has soul and moral stamina. You gentlemen are America. You represent her ideals, her dreams, her soul. When you rise in the strength of the power vested in you, the fetters of economic slavery will be broken from thousands of our citizens, and a new America shall emerge.

So, on behalf of the National Baptist Convention, U. S. A., Inc., I respectfully request your careful consideration of this legislation, and sincerely trust that you may see your way clear to report it to the Senate, with the recommendation that it pass.

Senator DONNELL. Are there any questions?

Senator ELLENDER. Reverend Ray, did Dr. Jemison prepare that statement?

Reverend RAY. No, sir; it was prepared by a committee, members of the social-service committee of which I am chairman. Some of the members live in the New York area. I have a letter, however, from Dr. Jemison, urging me to urge the passage of the bill.

Senator DONNELL. Mr. Ray, we very much appreciate your coming today and thank you very much for your statement.

The committee will be in recess until June 18, 1947, at 9:30 a. m., in this room.

(Whereupon, at 1 p. m., the subcommittee adjourned until 9:30 a. m., Wednesday, June 18, 1947.)

ANTIDISCRIMINATION IN EMPLOYMENT

WEDNESDAY, JUNE 18, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the committee room, Capitol Building, Senator Forrest C. Donnell presiding.

Present: Senators Donnell (presiding); Smith, Ives, Murray, and Ellender.

Senator DONNELL. The committee will be in order and we will proceed with the hearing. Our first witness this morning is Mr. Walter Reuther, president of the United Auto Workers. Mr. Reuther, for our record, will you please state your name, address, and business, and something of your previous experience?

STATEMENT OF WALTER P. REUTHER, PRESIDENT, UNITED AUTOMOBILE, AIRCRAFT, AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO)

Mr. REUTHER. Mr. Chairman, my name is Walter P. Reuther. I am president of the United Auto, Aircraft, and Agricultural Implement Workers Union of the CIO. I am also vice president of the national CIO, and I am the director of the UAW-CIO fair practice and antidiscrimination department.

I was born in Wheeling, W. Va., in 1907. I have been working in the automobile industry for the past 29 years. I have been an official of the UAW-CIO for the last 11 years.

I am appearing here today in the capacity of president of the UAW-CIO and as a personal representative of Mr. Philip Murray, president of the national CIO. I have prepared a brief which I would like to enter in the record as part of my testimony. The committee has copies of the prepared statement.

Senator DONNELL. It will be incorporated in the record, Mr. Reuther, at the conclusion of your testimony.

Mr. REUTHER. I am appearing in support of S. 984, which has been approved specifically by the executive board of the UAW-CIO and the principles of which have been approved by convention of the national CIO. I appear in support of this bill because I believe that to deny any person employment or economic opportunity because of race, creed, or color is undemocratic, antisocial, un-American, economically stupid, and morally indefensible.

We fought a war against racial intolerance and I think we have got to carry through that fight against intolerance in America if we maintain our democracy. America certainly cannot assume leadership for the rest of the world and instill confidence in the people with respect to the democratic principles for which we fought the war unless we are prepared to destroy intolerance and discrimination in respect to employment opportunities in America. We in our organization believe that unless everyone is given opportunity to find employment, limited only by their individual ability without regard to race, creed, or color—unless this is done, we cannot really claim that we are free in America. We believe that freedom, like peace, is indivisible: that unless everyone has freedom no one's freedom will be secure.

We think that the passage of the bill before your committee, S. 984, is not only a matter of social justice to the individual but we think it is a matter of grave economic concern to the whole Nation, because if we deprive millions of people of the opportunity to make their maximum productive contribution, it means we are robbing the American economy of the tremendous wealth that that energy and that capacity could produce.

So we believe that this is not only a matter of justice, but also a matter of grave economic concern at a time when we are trying to achieve maximum production and trying to mobilize our productive resources to meet the challenge of peace.

Racial intolerance does not create wealth. Right now the job America has to solve is how are we going to mobilize our economy to take care of the problems on the home front, to give to the American people a higher standard of living and still have enough left over to be able to help in the job of rehabilitating the economies of the rest of the world. That is the most important job that America has, and our economy is the greatest single asset that freemen have in the world, and if we deny millions of people, because of race or creed or color, an opportunity to make their maximum contribution in our economy, we are denying the economy the benefit of their energies and their skills and the efforts, and we are therefore penalizing the whole Nation and the whole world by not taking advantage of that tremendous reservoir of creative and productive effort that could be applied to our economy.

We believe that the right to work and the right to earn a living for one's family is a fundamental and basic human right which must be protected by law. The statute books of our Nation are filled with laws that protect the property rights of great corporations, and we believe that the right to a job on the part of the wage earner is a most valuable property right, and therefore ought to be protected by law.

If S. 984 is passed, we believe that it will be a fresh and new and clear-cut declaration of the principles of Americanism which will make it clear that we believe that every American in 1947 is entitled to life, liberty, and the pursuit of happiness, without discrimination. You cannot pursue happiness unless you can get a job, and if you are blocked from equal job opportunity because of race, creed, or color, you are being denied the fundamental principles of Americanism.

We believe that second-class economic citizenship is as undemocratic and un-American as second-class political citizenship, yet we know that millions of Americans prior to the war were denied equal

job opportunities, because of race, creed, or color, and it was not until the war came along, until the pressure of the manpower situation developed, that we were able to get certain minority groups into these industries. We believe that these people have proven that they can make a great contribution to the total welfare of our country. They have proved that in forging the weapons of war, and we believe they should have the same opportunity to help to forge the democratic tools of peace, and yet they are being denied that opportunity.

In our union, the CIO, we have done a great deal toward fighting against discrimination, and we have made great progress, but we have been very conscious of the fact that our ability to solve this problem is very limited, and that we cannot do the job unless we are supported by governmental action, and the problem is much broader and much more difficult than a union can solve within itself. Our efforts must be supplemented by comparable efforts on the part of government through legislation. In our union we take in all workers, regardless of race, creed, or color. They all have the same membership status, and there is no second-class membership in our organization. I think a good example of the work that we have done with respect to fighting against discrimination is the things that developed during the race riots in Detroit in 1943. As your committee knows, we had a very bad situation in Detroit, and despite the fact that in the streets of Detroit the Detroit citizens were rioting, inflicting bodily harm on one another, inside of the factory where our union was organized the same people were working side by side and there was no trouble. The Attorney General at that time, Mr. Biddle, was asked to check into that, and he said this in his report to the President :

It is extremely interesting that there was no disorder within the plants where colored and white workers work side by side, on account of the efficient union discipline.

We have been carrying on the work of fighting discrimination in respect to job opportunity inside the plant. In 1944 the UAW-CIO, by the action of its international executive board, created a fair practice committee, a permanent committee of our executive board, which set up machinery by which we would fight against discrimination with respect to job opportunities inside the factory. We dealt with the question of upgrading Negroes and other minority groups to higher-paid and more-skilled jobs. We ran into a lot of resistance, both on the part of the employer and on the part of the employee. A large number of our members and of employees in the automobile industry came from the deep South, and, of course, in many cases, they brought their prejudices with them. When we fought to upgrade Negroes and give other minority groups equal opportunity on the more-skilled and higher-paid jobs, we met with this resistance, but we found that where you take a firm position and follow through these matters can be solved; that you can sweat it out, you can talk it out, and you can conciliate the thing.

But the basic problem arises at the hiring gate. Inside of our union we have done what we think is a very fine job—not perfect; we hope to improve it—but we have done a fairly good job in giving people inside the factories, once they are employed, an opportunity to move up to those jobs based upon their individual qualifications, not based upon their race, creed, or color. We have done that very well, but we have

been having a great deal of difficulty in getting the companies to agree to apply the principle of nondiscrimination at the hiring gate. The union has no control over hiring procedure. Only after an employee is hired by the company does he come under our jurisdiction, and do we then have anything to say about his status in the plant. At that stage of the game we can do a fairly good job through our seniority agreements, our upgrading agreements, and that sort of thing, but the real discrimination occurs at the hiring gate, and that is the evil which the bill before your committee attempts to deal with. We believe that if this bill was passed, S. 984, you then would have machinery by which we could begin to deal effectively and fairly with discrimination at the factory hiring gate.

During the war, when President Roosevelt came out with Executive Order 8802, that was a great help in breaking down discrimination at the hiring gate. We worked very closely with the FEPC at that time and we made great progress. Progress was made because of Executive Order 8802, plus the fact that we had developing in key and basic war industries a very critical and acute manpower shortage. So you had a combination of two factors: You had the Executive order, which carried the weight and the pressure of governmental direction, plus the pressure of manpower, and in that period we made considerable progress.

I would like to just cite some figures with respect to the over-all improvement that the minority groups achieved in that period.

The wartime labor shortage, plus FEPC and union policies, enabled Negroes to gain more employment in the skilled and semiskilled categories during the war. According to the Census Bureau, Negro men employed as craftsmen and foremen in the skilled jobs increased from 4.4 percent of the total employed in April 1940 to 7.3 percent in April 1944. Negro men employed in the semiskilled category of operatives increased from 12.6 percent of the total employed in April 1940 to 22.4 percent in April 1944. These are United States census figures. So that we made considerable progress in that period, and what we have got to do now is to try to sustain that progress.

The pressure for manpower has been removed. Executive Order 8802 no longer operates. Therefore we think the Government ought to take action at this time to create machinery such as this bill provides, to see that people are given an opportunity for employment without discrimination. Our experience has been that where you have machinery such as this bill proposes to establish, and if you get governmental action and action on the part of the union working together with the employer, you can break this problem down. We found that even in situations where there was great tension and considerable resistance, if there was a will to work the problem out on the part of the people in positions of responsibility, and if there was an honest effort made, even the most difficult problems could be solved. I went into local unions during the war all over the country—in the deep South, in the North, in the East, and the West—where this problem came up, and with rare exceptions we were able to work the problem out without any difficulty, merely by going in and not laying down a mandate, but by getting together all the people involved and talking this thing through. Of course, we had all of our persuasion, all of our appeal to fairness and democratic principles backed up and supported by

the Executive order, which carried the weight of the Government with it. They were supported also, of course, by the urgency of the wartime need, and in practically every case we were able to work this problem out without any difficulty, based upon the fact that we approached it with this firmness, with governmental support.

We believe that if this bill becomes law it will provide the practical machinery for doing in these situations the sort of job that we did during the war. The bill is not an arbitrary thing. It creates machinery for conciliation, and machinery to exhaust the processes of persuasion and democratic exchange of points of view; but persuasion, that democratic process, is supported and backed up by the force of law, and we believe that if you have that kind of a set-up it will be possible to break this thing down and eliminate discrimination from employment.

In March of 1946 the UAW-CIO convention at Atlantic City adopted a constitutional provision establishing a permanent fair practice and antidiscrimination department. We have set up a national committee, and under that national committee we have set up in each local union a functioning fair practice and antidiscrimination committee. Our constitution provides that 1 cent out of every individual's monthly dues payment goes into a special fund to fight all forms of discrimination. We have established complete appeal procedure by which a worker who has been discriminated against in his factory may file a grievance, have the grievance heard locally, have it appealed to our international executive board's fair practice committee, have it appealed to the executive board and to the international convention, which is the highest tribunal. We have complete machinery for providing for protection against discrimination inside the factory and inside the union, but we have no machinery to guarantee that a worker will not be discriminated against on getting into the factory at the hiring gate.

Senator DONNELL. Do your contracts with employers provide against discrimination by the employers, Mr. Reuther?

Mr. REUTHER. We have worked out in our industry what we call a model fair practice and antidiscrimination clause. It deals with discrimination both in the plant and at the hiring gate. We have had great difficulty in getting employers to agree to incorporate in the contract anything with respect to hiring procedure. They have taken the position that they exercise the sole judgment with respect to hiring procedure, and that once they have employed a worker, we then have some say over the conditions of employment, and thereby would say that in very few cases have we been successful in getting the employers to agree to a contract provision which deals with the question of employment. After they are employed we have had more success in guarding against discrimination, because there we have control of the seniority provisions over upgrading, promotion, trainee promotion, and that sort of thing. But the real discrimination takes place before the fellow comes under our jurisdiction, and if he is denied employment because he is a Negro, or for some other reason, we do not have anything to say about it, because he never becomes an employee and never comes under the jurisdiction of our contract provisions.

Senator DONNELL. Your contract provisions with respect to persons who have been employed by the employer—do those provisions contain prohibitions against discrimination?

Mr. REUTHER. In some of our contracts we have specific language which says that there shall be no discrimination because of race, creed, or color. In other contracts we have to police that in keeping with our seniority provisions. In most contracts they are able to move up to a better job, a higher paid job, based upon length of service, providing all other factors are equal when they are qualified to do the job. So that we police the question of discrimination because of race, creed, or color in respect to advancement or better job opportunities inside the plant, primarily through our seniority agreements. And I would say that not more than 20 percent of our agreements contain specific language dealing with the question of nondiscrimination because of race, creed, or color, but on the whole we do a fairly good job, once the worker is in the plant. There are spots where we still have to work on it where local prejudice is an important factor or where the community pattern has been fixed rigidly over a period of time, and we have to get in there and work to help change that community pattern. In those situations we just work at it, we work at it hard, and during the war we were able to make a great deal more progress than we are able to make now, because there we could talk about Executive Order 8802, which had the weight and the force of the Government of the United States behind it. Lacking that, we have lost an important weapon in prosecuting this fight. That is why it is so important to have a law that will begin to strengthen our position. It will strengthen management's position. There are situations where management is willing to go along and meet the resistance of the community. If we had a law we would be strengthened, the lawyer would be strengthened, and the employer and the union and the Government working together could do the job. There is no question about that in our mind. Our experience proves that it can be done if we can get that team—labor, management, and the Government—working jointly on the project, exhausting all the machinery of conciliation and persuasion and all of the moral values you can put into the situation, and having those things backed up by the strength and the power of law. That is the way the job can be done.

Senator ELLENDER. Mr. Reuther, when did you start taking in colored persons into your union?

Mr. REUTHER. From the very inception of our union. We have a clause in our constitution which says that any worker in industry, regardless of race, creed, or color, skill, or occupation, shall be permitted in the membership of the union on a completely nondiscriminatory basis, into full membership and full rights.

Senator ELLENDER. That applies to the automobile union alone or to other unions?

Mr. REUTHER. That applies to all CIO unions. There are no CIO unions that discriminate because of race, creed, or color. We would not tolerate a union of the CIO that practiced discrimination.

Senator ELLENDER. Did you have much repercussion from your old members when colored persons were taken into the union?

Mr. REUTHER. As I say, there were spots where there was some resistance, but we faced those problems with firmness and courage and fairness, and we sat down with them and worked it out. And that applies to spots in the deep South. There is no local union in our organization anywhere—we have local unions in nearly every State in

the Union and in Canada—where people are discriminated against with respect to membership because of race, creed, or color.

Senator ELLENDER. At present you find there is less friction, do you not?

Mr. REUTHER. We have had little trouble with respect to friction in our union, because we have worked this thing out.

Senator ELLENDER. I am talking about less friction or less difficulty in getting, let us say, employers and your union members to take in colored and various nationalities?

Mr. REUTHER. You see, Senator, we cannot take into membership a worker unless he has been already hired by the company. Our problem is getting the worker hired.

Senator ELLENDER. I understand that, but still you have made progress, I am sure, in getting the employer to incorporate into the contract the clause that you referred to a moment ago. Is that true?

Mr. REUTHER. I will say we have made some progress on that. We have made more progress on getting them to agree to contract provisions which say there shall be no discrimination after the man has been hired, but we have had little success in getting employers to put into the contract that they will not discriminate when they hire. They insist on having complete freedom at the hiring gate, and this bill primarily deals with that particular evil.

Senator ELLENDER. If you limited the clause merely to race, color, or creed, do you think there would be much objection or as much objection by the employer?

Mr. REUTHER. Yes; I think most employers figure that the matter of hiring is not a matter of union contract.

Senator ELLENDER. I understand that, but don't you add to that other things than race, color, or creed, that cause the employer to object?

Mr. REUTHER. What you are thinking about, I suppose, is the question of political affiliation. That is not a problem and this bill does not deal with that. This bill deals purely with discrimination in employment, asserting that it shall be illegal and unlawful for an employer to discriminate because of race, creed, color, or origin. That is what we are talking about here this morning. We are willing to sign that kind of a provision with corporations, but we have been unable to do that, unable to get them to agree that the union contract shall contain clauses that regulate the hiring procedure. They keep saying, "After we have hired the employee, then he comes under the jurisdiction of your contract and at that point you have something to say about his conditions of employment and wages, and so forth."

What we are talking about here primarily, and the real meat of this bill deals with the basic problem of discrimination at the hiring gate; how can we stop people from being denied economic opportunity, the right to earn a living for their families, at the hiring gate?

We believe that if this bill is passed—and certainly, the New York law is a model of what can be done—we believe that if the law is enacted, it will strengthen those forces in the industrial community who are attempting to get fair play in employment, and we believe that a good job can be done.

Senator ELLENDER. Mr. Reuther, don't you think that it might be possible to do a better job by continuing the course that your union

has taken in educating the employer and the people who would object to it, to that point?

Mr. REUTHER. Our experience, Senator, has been as indicated, has been as I have stated, and I think our union—I don't say this boastfully, but I think it is a matter of fact that our union has done more on this question of the fight against discrimination in respect to economic opportunity than any other union in America. I think we are the only union that has a constitutional provision with a full-time fair practice antidiscrimination department earmarking 1 cent of every dollar taken in to go into that fund, and must be spent to fight discrimination, but despite the fact that we have put all this effort into it and we know that we are up against a stone wall with respect to fighting discrimination at the hiring gate, we are doing a good job in the plant as to whether a Negro qualified to operate a machine can get the opportunity to operate a machine; whether a Negro who is qualified for a skilled job over here can get that opportunity. We do a good job on that because there we are working within the structure of our contract, but the real discrimination that we are fighting against, that we cannot touch, and which this bill deals with, is the man's right to get the job in the first place.

Senator ELLENDER. Where do you get most of your objection, from what section of the country? You say that 20 percent of your contracts have the clause that you quoted a moment ago. Where does that exist? Is it in the South or where is it?

Mr. REUTHER. No; it has nothing to do with geography. It has everything to do with what management calls its prerogative. They just don't want to tie themselves down. If you ask, "Well, does your refusal mean that you are discriminating?" they will say "No; we just don't want to put into a labor contract a clause that deals with something that we thing is outside of the labor contract, our right to employ anybody we want to."

Senator ELLENDER. What success have you met in those contracts in which you have this clause containing antirace discrimination?

Mr. REUTHER. I think where we have such a clause, on the whole, the clause has been adhered to and carried out.

Senator ELLENDER. Can you give us some examples of where you have had it and the results that have been attained?

Mr. REUTHER. They are mostly small shops, where we have been able to influence the employer more easily than we have in the bigger corporations. But I will just say to you as a citizen and as a labor leader who has had considerable experience on this, that the job will not be done in America, and that discrimination will continue and will grow greater unless there is such a law as this passed, and I would like to point out at this time—

Senator DONNELL. Might I interrupt you there? Do you think it is growing greater now, this discrimination?

Mr. REUTHER. I will give you figures to prove that it is on the upgrade.

Senator ELLENDER. Before you go into that, Mr. Reuther, you mentioned a moment ago the FEPC that was created under Executive order. Are you familiar with some of the methods that the Commission resorted to in an effort to break down segregation in its contention to give to the colored people and other people their rights in the economy of our country, as was proposed by the FEPC?

Mr. REUTHER. I am not familiar with all the details and practices of the FEPC Committee. I do know from personal experience in situations where we had the opportunity to work with them, that they did an amazingly good job in an intelligent, democratic manner, many times under very adverse conditions. No governmental agency or committee has achieved perfection, because we are dealing with imperfect people, but I think that if you take the total over-all effort of the FEPC Committee and look at it impartially and in terms of total job done, you can come to only one fair conclusion, that on the whole it seems a magnificent job in a very difficult field of operation.

Senator ELLENDER. Generally speaking, would it be correct to ask—this is the point I want to make—whether or not you agreed with the method resorted to in order, in my opinion, to break down segregation? Are you familiar with the case that occurred in Missouri, the home of the Senator who is chairman of this committee? As I recall the facts, there were four Westinghouse factories located in the State, and an effort was being made there to have the colored with the whites. Of course objections were registered and finally the management concluded to operate one factory almost exclusively with colored employees and the other by the whites. Objection was raised. A strike followed, and the reason given was: Why should there be a factory set aside for the colored people? Why not mix the races?

Another case occurred right here in Maryland, where the colored, after being employed, insisted that the wall separating the white and colored toilets be torn out, that they should all be the same, no difference should be made. Because the management refused to do that, a strike occurred.

Now, do you believe that any law of that kind should be resorted to to break down segregation laws in such States as have such laws?

Mr. REUTHER. Well, in the first place, on the question of having segregated factories, if freemen are going to preserve freedom in this world, they are going to have to learn to work together. If they can fight together and die together for the "four freedoms," they can work together in the same factory doing the job in peace with each other. I say that if America can split the atom, it ought certainly be able to work out problems of how men can work and live together in harmony, regardless of race, creed, or color. You don't solve these problems, Senator, by running away from them.

Senator ELLENDER. No. How will you solve them, by force?

Mr. REUTHER. This bill before your committee does not suggest that they be solved by force.

Senator ELLENDER. It does not?

Mr. REUTHER. In our union that same problem came up—

Senator ELLENDER. It is provided in the bill that if they refuse to abide by it they may be punished.

Mr. REUTHER. The same thing came up in argument in a number of situations where the labor market was extremely tight during the war and where the production in the plant was of a very critical nature from the point of view of the military forces, when we had an influx of a lot of minority people, Negroes and others.

Senator ELLENDER. That was during the war?

Mr. REUTHER. Yes. The suggestion was made that maybe the answer was to have special, segregated departments. We blocked that.

We just said "No," because from the point of view of Christian ethics and decency and all the things that we were fighting the war for, we said we couldn't do that, and we went into those plants——

Senator ELLENDER. Where was that?

Mr. REUTHER. All over this country. We did that kind of job and went into those plants——sometimes there was resistance on the part of the employees, and where there was, we sat down with them, we didn't beat them over the head; we sat down and talked to them man to man, and we showed them that this was not the way a democracy should solve problems, by segregation. We worked the problems out and the Negro and the white worked together in those plants successfully, and that is why, Senator, when in the city of Detroit there were riots in the street in 1948, and when there was rioting going on in the streets the Negro workers and the white workers worked shoulder to shoulder in those factories. Why? Because we had been able to create the kind of climate, the kind of factory environment—we had worked on this thing—that made it possible for men to work together as men without regard to race, creed, or color, and if you will take that same approach in other situations that are similar, the same result will be obtained.

I have gone into the deep South on this problem, and I find that even in the deep South, if you are willing to face this thing with courage and firmness and fairness, you can get people to go along.

Senator ELLENDER. Yes; I agree with that. We have gone along mighty far, but it required, and will require in the future, much education. You cannot go there and accomplish it overnight.

Mr. REUTHER. I am for all the education in the world, Senator.

Senator ELLENDER. You spoke of Detroit. Talking about riots, you may recall the case where a few colored people there insisted on living in a project that was set aside for the whites. Do you recall that incident in Detroit?

Mr. REUTHER. I recall that.

Senator ELLENDER. Now, if the colored people were given a decent place in which to live, similar or nearly similar to what the whites have, why should they insist upon locating where the whites are?

Mr. REUTHER. I could agree that if we had adequate, decent housing, for all Americans, that nobody had to live in the slums, this problem would be greatly reduced. If you had adequate recreational facilities for all the people, this problem would be greatly reduced, and if you had adequate educational opportunities.

The real basic answer to this problem is that we have got to learn to distribute abundance instead of trying to distribute scarcity. That is the same thing with jobs.

Senator ELLENDER. Getting back to the question I asked you a while ago—do you believe it was right for the FEPC to use the power of the Commission to break down segregation in those States that desired it?

Mr. REUTHER. I am opposed to segregation North and South.

Senator ELLENDER. That is exactly what I thought, and I want to put that in the record.

Mr. REUTHER. I think it is un-American, undemocratic, un-Christian, and I think it is morally indefensible to have men called upon to go out and defend their nation and fight for the "four freedoms," and

give their lives, and then come back home to be second-class political and economic citizens.

I am just opposed to that because it is contrary to all the principles that I think have made America great. I am opposed to it regardless of geography, because I don't think geography makes any difference at all.

Senator ELLENDER. Let me ask you this question. You say you don't believe in segregation. It has been practiced in the South almost 100 percent.

Mr. REUTHER. And they have been lynching people in the South.

Senator ELLENDER. Yes; and they have lynched people in Chicago and in Detroit. They have more killings there than in any other part of the United States.

Mr. REUTHER. That doesn't make it right.

Senator ELLENDER. I agree with that. We don't condone lynching either. I know I don't, and a lot of other good white citizens don't believe in it either. The white people in the South are kind to colored people and treat them better than they are treated up North. But that is aside from the point.

Would you make any difference in States, for instance, say Mississippi, where the population of colored and white is in the ratio of 50-50, Louisiana 40-60, Georgia 40-60—would you make any difference in such States?

Mr. REUTHER. Senator, I recognize as a practical citizen that a law just passed cannot be mechanically administered from a central point; that when you go down into the South you have got to move maybe a little bit slower, you have got to nurse people, but I say the job can be done with the law administered with intelligence and judgment.

Senator ELLENDER. But, Mr. Reuther, this law is applied to all citizens, no matter where located, in the same manner.

Mr. REUTHER. The Federal law.

Senator ELLENDER. It applies to all, absolutely. That is the point. This law would not give the Commission that weapon which you think might be necessary to deal with the people in some particular locality.

Mr. REUTHER. That is where we disagree. This bill is patterned after the New York State law, which I think is a model law. That law provides for the kind of machinery in which you exercise the democratic processes before you attempt to invoke action by the Government. I assume it will be administered by people of high character and intelligence who, when they go into the community where you have got a rigid racial pattern, will go in there knowing something about the problem, but will be firm and just, and will move to advance the basic principles of the law with judgment, all the time knowing that if they have to invoke the ultimate penalties of the law, they have the power to do so. We have the same procedure in our union.

I think the people in Atlanta, Ga., who make up our union are just as good union people as the people in Detroit, but they have a background, they have lived in a different community environment, and they have different group patterns. When we go down there we recognize that, but we work with these people we try to reason the thing through and we try to follow the provision in our constitution. When we adopted that constitutional provision, establishing by the constitution a fair practice antidiscrimination department inside

of our union, of which I am director as president of the union, that was adopted by the unanimous action of our convention with over 2,000 delegates there, many of whom came from the deep South. They didn't get up and say: "This is going to tear our union apart. We ought to have 48 different patterns in our union. If you live in New York you ought to have one pattern; if you live in Georgia or Mississippi you ought to have a different pattern." It was adopted unanimously, because, fundamentally, the people who make up the membership of our union in the South know that the thing that we are fighting for is equal opportunity based upon the individual's own limitations, and only that. That is a fundamental principle that nobody can challenge.

Senator ELLENDER. Mr. Reuther, there is no question in my mind but that the well-meaning and good-thinking people of the South think as you do along that line, but their position is, and what this is, and what I fear is, that a law of this kind would be used to break down the barriers that have existed in the South for 75 or 100 years or more, the question of segregation. We firmly believe that if after the Civil War there had been no segregation laws, and the colored and the whites had been mixed together, as is proposed today by many well-meaning people in this country, there is no question but that there would have been intermarriage between whites and colored; that would have followed because of the vast number of Negro children and white children mixing together in the schools and at play and everywhere else.

Mr. REUTHER. The bill deals only with the question of economic opportunity, Senator. There is no question of social relationship involved. People have a right to choose their friends. I choose my friends.

Mr. REUTHER. The bill deals only with the question of economic to do, but as I pointed out to you a moment ago, it was used in many instances—and I could cite many of them—to break down these barriers, and that is why there is so much opposition to this bill, if you want to know the truth about it.

Mr. REUTHER. Senator the law deals only with specific economic problems. It makes no attempt to get into the area of social relationship. The law says only that it shall be illegal and unlawful to discriminate with respect to employment opportunities because of race, creed, color, or national origin. Now, I don't think it is proper for any citizen to be denied the opportunity to work, denied the opportunity to contribute his creative and productive skills within his own limits because he happens to be born a member of a certain minority. I think that is wrong, and I think that where that exists, whether it be 75 or 100 years old, the pattern is wrong.

Senator DONNELL. You speak of education. I agree that a democratic society must conduct great educational activities, and I am all for that.

Mr. REUTHER. Inside of our union we have been able to make progress by education. That is one reason we have this fair-practice department, one reason why we spend 1 cent out of every member's monthly dues for it. But we have got to realize that legislation in a democratic society of free people is in itself a tremendously powerful educational weapon; that the very fact that you pass a law, the very

fact that you create machinery to administer that law, the very fact that meetings will be held, advisory committees composed of the various key people set up in a community—all these things in themselves are part of the whole educational process which democratic society must carry on. Now, if you are going to say that the Congress of these United States, which has the responsibility for enacting legislation, will not enact a law until all the people have made up their minds that that is the best thing, many of the laws on our books, that everybody can agree are some of the best things that have been accomplished, would never become law. The process of education has to be carried on by legislation. It is part of the whole thing.

Senator ELLENDER. Now, Mr. Reuther, I dislike to repeat a question for the third time. You said that you are against segregation and are favorable to the FEPC of old, that was created by Executive order. Do you believe—answer “yes” or “no”—that it was right for the FEPC to have attempted to break down segregation rules and regulations, as was the case here in Maryland that I talked to you about a moment ago?

Mr. REUTHER. I say that wherever they were fighting against discrimination on the basis of these economic problems we are talking about, I think they were right.

Senator ELLENDER. They were right in doing it, in breaking down segregation laws?

Mr. REUTHER. If they tried to segregate the workers in one department, and so forth, I say that is wrong.

Senator ELLENDER. I am not talking about the workers now. I am talking about the conditions in that case where the colored people attempted to force the use of the same toilet as the whites. That is what I am talking about.

Mr. REUTHER. We have got problems in Detroit—

Senator ELLENDER. I am asking you for a “yes” or “no” answer, if you think it was within the province of FEPC, and whether or not they should have done a thing of that kind?

Mr. REUTHER. Well, Senator, you know where people know how to split the atom—

Senator ELLENDER. Now, don't dodge the question. Please answer “yes” or “no.”

Mr. REUTHER. I said “Yes.” I thought they were right in fighting against it.

Senator ELLENDER. You think then that the law should have been used in Louisiana and Mississippi to force—to go a step further—to force white boys and white girls to go to the same school with Negroes?

Mr. REUTHER. The law does not deal with that.

Senator ELLENDER. I know that. I understand that, nor did the FEPC deal with that either under the Executive order, but yet those administering it used it for that purpose.

Mr. REUTHER. You are asking me if I am in favor of such a law, and I think certainly that Negroes in the South are entitled to the same educational opportunities that white people are.

Senator ELLENDER. There is no question about that. We are striving for that end, and I don't want to fill the record with a lot of data to show that, but you say “yes” in answer to my question, that it was

right for the FEPC, created by Executive order, to go down into Maryland, to go down into Louisiana and any other State, to break down the segregation laws relating to social aspects of living in those communities?

Mr. REUTHIER. Let me tell you how we settled the same problem—

Senator ELLENDER. I don't want to know that.

Mr. REUTHIER. We had the same problem in the Packard plant in Detroit—

Senator ELLENDER. Now listen, I don't want to hear that—unless the other members of the committee want to hear it—but I am asking you a simple question, and I will ask you to answer it "yes" or "no," and then explain.

Mr. REUTHIER. My answer to the question is that I am in favor of breaking that kind of segregation down in factories. The problem that we have in Detroit—

Senator ELLENDER. I don't want to hear about that. Answer my question and then explain.

Mr. REUTHIER. I said "yes." I don't know how I can say it any plainer.

Senator ELLENDER. Then you qualify it by going back to factory workers. I am asking this particular question now.

Mr. REUTHIER. We are talking about factory people.

Senator ELLENDER. No, no. You can understand the question I have in mind, I think, Mr. Reuther.

Mr. REUTHIER. The law doesn't deal with this other broad principle you are talking about. I can give you my opinion, if that is what you want.

Senator ELLENDER. I am asking for that.

Mr. REUTHIER. The question is, Does this law give the people who are going to administer it the right to go into the South, into Mississippi, and say, that is, in a railroad station where they have a segregation of toilets, it is going to change that? I say the answer to that is "no," because this doesn't give any right to do that. Inside of factories that is something else.

Senator ELLENDER. Do you think that the FEPC, created by Executive order of the President, gave such a right as was exercised by the Commission in forcing an employer to have but one set of toilets for all employees, where that was against the State law?

Mr. REUTHIER. I don't know whether the Executive order issued by the President specifically gave them that right or not.

Senator ELLENDER. But they used that right in that way. I am telling you that they did. Now, emphasizing that what I am telling you is correct, do you think it was right? Do you think the FEPC should have done that?

Mr. REUTHIER. I think it should have been worked out between the workers and management of the plant without intervention of the FEPC. That is the way we did it. FEPC didn't have to come into our situations.

Senator ELLENDER. I understand that was attempted, but the FEPC insisted that the laws be broken down. That is what they did right here in Maryland. Do you think that was right?

Mr. REUTHIER. I think that morally what they did was correct.

Senator ELLENDER. How is that?

Mr. REUTHER. I think that morally what they did was correct. Let me just tell you we had—

Senator ELLENDER. I expected that answer from you, but I am sorry we had to kind of corkscrew it out.

Mr. REUTHER. I don't think you had to do that. I said "yes" very early in the testimony. The question of toilets, Senator, is not a question of white and black. It is a question of are they clean, are they sanitary? Can you use the facilities without danger to your personal health hygiene? That is the whole question. It is not a question of white or black.

Senator ELLENDER. But if you give to both the same facilities, as was the case in Maryland, you still insist that the FEPC should have insisted on breaking down that wall and saying "just use them as you please"?

Mr. REUTHER. The law that we are dealing with here deals only with the question of employment opportunity. It is written specifically around that problem.

Senator ELLENDER. That is what FEPC was intended to do under the Executive order.

Mr. REUTHER. But there is machinery in the law, and I say that if there is abuse by the administrative authority, there is certain machinery set up by which you can take corrective steps. No law is administered perfectly, you know, I mean in every law that is written there must be provided some guaranties for correction of administrative abuses, and so forth—the machinery there to take care of it.

I would like, Mr. Chairman, if I may, to cite some figures that prove that this thing is on the increase, discrimination against job opportunity, because of race, creed, and color, increase in discrimination in hiring.

Throughout 1946, discriminatory openings listed with the USES in Detroit averaged about 22 percent of total openings listed. They were 35.1 percent in December 1946; rose to 40.7 percent in January 1947; dropped to 28.9 percent in February; climbed to 42.9 percent in March, and continued upward to 44.4 percent in April.

Senator DONNELL. What were those various changes in percentages, Mr. Reuther? I did not understand that.

Mr. REUTHER. This is discrimination in hiring. This is the way they list them. The employers would say "We want white Christian employees."

Senator DONNELL. You mean the employers would make those requirements for employees?

Mr. REUTHER. That is right. Many employers make as a condition of employment that the man has got to be white, has got to be Christian, so that the actual discriminatory listing for hiring for job openings has been increasing.

Senator ELLENDER. As of what date was that?

Mr. REUTHER. I gave the dates with the percentages. Throughout 1946 the average was about 22 percent. Of the total openings, 22 percent were discriminatory.

Senator SMITH. You mean that was done by notice from the employer that he wanted this, that, or the other?

Mr. REUTHER. Yes, sir.

Senator SMITH. Are these the figures of the CIO?

Mr. REUTHER. These are the USES, official Government figures for the Detroit area. They list the job openings, and then they say "Here are the qualifications." If it is a question of skill, they list the skill, but in addition to skill and so forth there are these further qualifications on a discriminatory basis. So that the whole trend through 1946 was 22 percent average and in April 1947 it went up to 44 percent, or double. In other words, in 1 year's time, as the labor market gets loose, as there are more people as compared to fewer jobs, the discriminatory aspects of the thing become greater, because they are able to more carefully select the people they want to hire. That will be especially true if we get into another temporary economic recession. The market increase will be soaring.

Senator DONNELL. Mr. Reuther, is that the percentage number of particular listings, or is it the percentage of employees that were called for in the listings?

Mr. REUTHER. This is the percentage of openings, Mr. Chairman.

Senator DONNELL. There is, if a man—suppose an employer wants two employees; another employer wants to employ two employees; would that be two listings or 102 listings?

Mr. REUTHER. That would be 102.

Senator DONNELL. So that your average, you consider, is a weighted average, taking into consideration the number of employees?

Mr. REUTHER. Yes; if the employer wants 100 workers and he stipulates they will have to be white, that accounts for 100 discriminations. Another employer wants two people, and he insists that they be white, that is 102.

Senator DONNELL. That is the way your figures are made?

Mr. REUTHER. Yes. This shows that in 1946, the discriminatory openings listed with the USES in Detroit averaged about 22 percent of the total openings listed. That rose to 44.4 percent in April of this year. That reflects a loosening of the labor market, and indicates that the matter will get even more serious as we get into a situation where there is a greater number of unemployed and fewer job opportunities. That will enable the employer to use more care in selection on a discriminatory basis.

Senator ELLENDER. Have you brought for us a break-down of what the discrimination consisted of? Was it because of religion or race, or exactly what was it?

Mr. REUTHER. I would say, without having it now, we could get a break-down, and I would be very happy to furnish the committee a complete break-down of these figures that came out of the Detroit agency, but I think I can safely say, Senator, that 95 percent are on the Negro question. I think if you should take the other 5 percent and get into the question of whether they want white, Christian, that would cover all the balance. I mean 95 percent is on a straight Negro basis.

Senator ELLENDER. I may be a little late in asking this question. I didn't want to interrupt a moment ago, but when you stated that the FEPC of old worked very well, don't you think that was partially due to the fact that during the war we had almost full employment at the time?

Mr. REUTHER. That helped a great deal.

Senator ELLENDER. And that, as you have just pointed out, the question of discrimination is accelerated to the extent that you do not now have full employment? Isn't that true?

Mr. REUTHIER. When you can't get a person who shows his parents as white parents, then you have to hire someone who did not choose white parents, because there is nobody else to do the job for you if you want the job done. That doesn't mean you have made progress. It means that the necessities of the war situation and the sheer lack of manpower, white manpower, forced the employment of Negroes.

Senator ELLENDER. I am not questioning that at all. It goes to show that one of the main reasons, in my humble opinion, why FEPC apparently worked so well from 1941 to 1945 was because of the fact that practically everybody was employed; the employer, of course, desired the work done, so did the Government, and whoever offered to work was hired, because of a lack of employees to fill the job.

Mr. REUTHIER. I would like to go into some more of these figures that I think will be helpful to the committee. The existence of union-seniority agreements somewhat cushioned the shock of postwar economic retrenchment for Negroes, but in cost cases, since the union could not break down prewar discriminatory hiring patterns, Negroes suffered, wiping out the wartime gains of Negroes, shifting them to lower classifications and service jobs, because they were the last people who came in, and naturally they have the least seniority, and as you get a shifting back of employment they have to move back to the lower-paid jobs, then back on to the street. While the seniority provisions of the union, worked out in the contract, prevented employers from weeding out all Negro employees just by laying them off arbitrarily, nevertheless, while it was a cushion in that respect, it did not stop the movement back to lower classifications, because the Negroes were the last employed, and therefore had the least seniority, and they were pushed back to lower-paying jobs and the fellows who did not have enough seniority to hold those jobs, of course, were pushed out on to the street.

Senator SMITH. That would be in line with the usual union procedure and seniority. You could not help that.

Mr. REUTHIER. That is right. But if we did not have the seniority agreements—the employer, before we had contracts, they would arbitrarily lay off anyone, and in that case the Negroes would have been laid off as a group, and employees would have gone back to the old pattern of employment, that is, to the straight basis of hiring white employees.

Senator SMITH. But your seniority rules do not discriminate?

Mr. REUTHIER. That is right. They protect those people.

I would like to cite some other figures here. Nonwhite postwar placements in unskilled jobs, where there can be no question of qualifications, fell from 63.5 percent of the total to 37.9, or by about two-fifths. White placements in such jobs fell from 50 to 40.3 percent of the total, or by less than one-fifth.

Senator DONNELL. These are in Detroit?

Mr. REUTHIER. These are national figures. As a result, nonwhites were forced into service jobs. Nonwhite placements in such jobs were less than a fourth of the total in 1945; rose to more than half in 1947. You can see the whole process is beginning now to shift these people

out of industrial plants, where they were able to get opportunities because of the war emergency, pushing them back into the old pattern of employment opportunities that existed before the war, absolutely on the basis of their race, creed, and color. These figures, I think, are very enlightening.

Nonwhite workers are forced to bear an unfair share of current unemployment. According to surveys by the United States Census Bureau in July 1945 the proportion unemployed among white workers was 1.7 percent; among nonwhites, 2 percent. In April 1947 the figures were 3.8 percent for whites; 6.7 percent for nonwhites. In other words, unemployment among whites had increased by about 1½ times. Unemployment among nonwhites had more than tripled. You can see how much larger percentagewise the impact of unemployment is affecting the Negro group, and that is the percentage that is jumping up very sharply.

You can see another thing that reflects this discriminatory policy, in the fact that the Negroes not only do not get jobs, but when they get a job they get it in the low-paying groups in most cases, and being the last ones taken in, their seniority does not permit them to move up, as does the older worker who was employed at an earlier date. I think the thing that reflects that is the earning credits under the social-security and employment-compensation laws.

The grave wage differential suffered by Negroes is illustrated as follows, citing earnings credit figures and benefits paid to white and nonwhite survivors, the average social-security wage credits in 1944 were—

For all men, \$1,691; for Negro men, \$1,081. The difference there is more than \$600 in the wage credit that they have coming to them, which reflects their past earnings.

For all women, \$891; for Negro women, \$550. Those figures reflect the earnings, and therefore indirectly the job opportunities that Negroes have had in this period.

The average monthly retirement payment per beneficiary under the Social Security Act at the end of 1945 was:

For all employees, \$24.19; for nonwhites, \$18.28.

The average monthly payment for surviving children of deceased workers was:

For all workers, \$12.45; for nonwhite, \$9.35.

Here we see another generation of second-class citizens beginning life already doomed by the double standard which metes out unequal economic justice to white and colored Americans. This economic injustice is a sort of pyramiding process. You are denied the opportunity to get a job in the first place, and even after you get a job, the thing continues on pyramiding, so that in every phase of your economic life you get penalized at each step in this whole thing. They are also penalized in not getting a job, and getting a job last they get penalized by getting the lower-paid jobs. Then they are also penalized in unemployment compensation and social security. You get a building up of this injustice at every level of the economic ladder.

Senator ELLENDER. Mr. Reuther, I wonder if you would be good enough to tell us this in line with what you are now talking about: You say that ever since the CIO has been organized you have had in your constitution a provision whereby you are to make no distinction

as to race, color, creed, and so forth. Now, take a particular factory in Detroit, let us say Ford or General Motors, whichever it may be, what percentage of the entire number of workers in such a factory are colored and what percentage are whites?

Mr. REUTHER. That, of course, Senator, will vary by factory. In the Ford plant, since you mentioned the Ford plant, I would say that they are probably 15 percent of the employees in Ford. I am only guessing at that. I think about 15 percent of the Ford employees in the Rouge plant, the largest of the plants, are Negro.

Senator ELLENDER. What percentage of the high jobs that you were talking about a while ago—that is, those of bigger incomes—are given to this 15 percent of colored employees?

Mr. REUTHER. That varies again by plants.

Senator ELLENDER. Let us take Ford.

Mr. REUTHER. In the Ford plant the great bulk of the Negroes are in the foundry, although there are Negroes employed throughout the whole plant on all types of skilled jobs.

There are Negroes in the most skilled departments. There are Negroes in the tool and die department, there are Negroes in the maintenance department.

Senator ELLENDER. To what extent?

Mr. REUTHER. Well, percentagewise I could not say.

Senator ELLENDER. Is it very high?

Mr. REUTHER. There again you get back to the old problem that under the seniority agreements, where service is a factor in moving up, in many places where the Negro came in last, they are penalized there, you see by—I mean they are not penalized, but they do not get the benefit of higher seniority, since they do not have it; but where a Negro is qualified and has seniority to enable him to move into a higher job, under our contract and our union policy, and if a Negro is not promoted to the job that he is entitled to, based on his seniority or based on his skill and qualifications—if he does not get the job, he takes it up as a grievance, and if there is reluctance on the part of the local committee to process that grievance—because, on account of some situation, they may be hesitant—that employee, as a member of our union, can file a grievance that is then processed through our special grievance machinery, the fair practice and antidiscrimination department, and he can take his grievance up through the local committee with the national committee, with the executive board and the international convention. We have complete machinery for handling grievances, but we do not have machinery to guarantee him a job.

Senator ELLENDER. Do you know whether colored people have been employed in the Ford plant during the last 10 or 12 years, in fact, since your CIO has been organized there?

Mr. REUTHER. I did not get that question.

Senator ELLENDER. I will restate it. Do you know whether or not there are some colored people now employed in the Ford factories that have been working there ever since your union was organized there?

Mr. REUTHER. Oh, yes; there are many.

Senator ELLENDER. To what extent have they progressed in the skilled jobs?

Mr. REUTHER. The machinery is there, and if the person was entitled to a higher paid job and did not get it, it is because he has

not filed a grievance and has not taken advantage of the machinery inside of our union. Let me just say that I think that for a number of years we have had Negroes in top leadership of the local—I mean the vice president at the present time. I am trying to show you that actually they are occupying that status in the union, and therefore have had something to do with the machinery of the union for meeting the problems.

Senator ELLENDER. But I am talking about the jobs.

Mr. REUTHER. That is not only good politics, but it is the right thing, correct.

Senator ELLENDER. But I am talking now about the skilled work in the Ford factory. What percentage of this 15 percent of the colored persons are working in what you consider the real skilled jobs?

Mr. REUTHER. I would say there are some Negroes in the highest skilled jobs.

Senator ELLENDER. How many?

Mr. REUTHER. The percentage I cannot tell you, but I say if the Negro is entitled to it, based on seniority and qualifications, the machinery is there for him to apply to, to get justice.

Senator ELLENDER. And if he doesn't get it, it is his fault?

Mr. REUTHER. Because he has not taken advantage of the machinery. That is right.

Senator ELLENDER. You say that the bulk of the Negroes, of the 20 percent, are employed in the foundry. What kind of work is done in the foundry? Is it just menial work, does it require skill?

Mr. REUTHER. I would say that foundry work, on the whole, is less skilled. There are some skilled jobs.

Senator ELLENDER. Is there any job except floor sweeper that is less skilled in the foundry where this 15 percent are employed?

Mr. REUTHER. Yes; there are some skilled jobs, mold making and that sort of thing. That fellow has to work. He is in charge of the coring, and in that job he has got to watch his heat and stuff like that. There are some skilled jobs in the foundry. There is a high percentage of the jobs, of course, that are just hard work.

Senator ELLENDER. But what I had in mind is, are there any other jobs at Ford that require, on the whole, less skill than the foundry worker?

Mr. REUTHER. There are many departments in Ford where the skill is comparable, and there are some jobs less skilled in some departments. But the foundry is certainly not the highest skilled department in the factory. I think that is a matter of fact. What happened in most of these plants is that when the union was organized it inherited the established patterns in industry, and those patterns having been established, we had to start from that base. In the olden days Negroes were assigned exclusively, or in 90 percent of the factories in our industry, to the sweeping of the floors and doing the meanest kind of work in the plant, and that is all they could get. They could be there 50 years and still they would have the same rule. We changed that, but we had to start out with this pattern that was based upon years and years of discrimination. We are breaking that down, but again I repeat that that is the pattern inside the factory, while the real discrimination takes place at the factory hiring gate, and we cannot do anything about that, and that is the reason why the law is

necessary, because the law can help us fight that, and after the worker is employed, we can then try to work out a pattern inside the factory to see that, having been a part, he is not discriminated against with respect to advancement, and so forth.

So my practical experience leads me to this conclusion: That the discriminatory pattern and percentage of discrimination with respect to job opportunities is going to increase, as these figures indicate. It is already increasing. It will be accelerated greatly by the slightest economic recession that dries up job opportunities and creates greater unemployment, so that the thing will become worse and worse.

I believe that certainly if America is to carry out its moral commitments to its own people, and if it is to give inspiration and hope to the rest of mankind throughout the world, who are struggling to realize in a practical way those noble principles for which we fought the war, we have got to have the courage and the intelligence, and we have got to demonstrate the statesmanship to perfectly practical mechanics of democracy, to see to it that no citizen in America is denied the right to work and the right to earn a living for his kids on the basis of race, creed, or color. We have got to realize that in denying millions of people that opportunity we are not only denying them social and economic justice, but we are penalizing the whole economy, and we are undermining the resources and the ability of this country to mobilize its productive capacity in force, which is the prime requisite if we are going to be able to raise the standard of living of our people and exert enough of our economic effort to the rehabilitation of the economies of the world. And as I said earlier, the most important single asset that freemen have in the whole world is the productive capacity of American economy, and when you deny to 10 percent of the people of this country the opportunity to make their maximum creative and productive contribution, you are penalizing the economy, you are restricting our efforts to mobilize our productive capacity in the fullest, and you are, in effect, blocking the achievement of our maximum contribution to the total well-being of our own people and the whole world situation, so I think this thing has broad implications, and I urge very strongly that your committee recommend this bill favorably, and I hope and pray that the Congress of the United States will see, in their wisdom, the soundness of making this a law of the land; because I think it is an absolute necessity if we are going to give substance to the "four freedoms" and if we are going to translate these abstract conceptions into the practical economies of life.

Senator SMITH. Mr. Chairman, I would like to ask a few questions.

In the first place, Mr. Reuther, I want to congratulate you personally on your very fine presentation of this cause. I am a sponsor of this bill, S. 984, and with you I want to see the principles of this legislation placed definitely on the statute books as the policy of the United States. I believe that the thing we need most in this country is the quality of educational and economic opportunity everywhere. My only difficulty with the thing is knowing the way to bring it about, and I was very much impressed with your explanation here of the way the CIO goes about it. You used the expression of firmness of purpose in sweating it out and in conciliation to the end that you

have been able to bring about understanding, human understanding between your people in working out the problem in a given instance. I approve of that entirely. You say you have done that not by any mandate of the union, but you have done it by understanding between people and recognition by the educational process that is the right way to bring about these results.

The only thing in this whole legislation that disturbs me has been the matter of legal sanction. Of course, we had before us years ago the prohibition movement which, whether rightly or wrongly, did not succeed, which would have compelled by law a thing that we discovered probably could be brought about better by the educational process. Because I have had these doubts I have asked earlier witnesses, including my distinguished colleague, Senator Ives, with whom I collaborated in preparing this bill, whether he felt any fear in considering the policy of those areas of the country where public opinion is not educated to the point of accepting all these principles, much as opinion is in favor of it in some areas—considering the possibility of not making the legal sanction applicable in some areas, to have all of the machinery of conciliation and adjustment, but not have that one arm of legal compulsion as the final step. That is the only place where I have doubt as to whether we might not raise more differences, more antagonism, more prejudices if we undertake to make compliance compulsory by law. I believe so profoundly in sitting around the table, as you suggested you are doing in your own union—and I congratulate you on the great job you are doing—to get these people to understand each other and to realize the importance of understanding, conciliation, and agreement.

I cannot agree at all with my distinguished colleague from Louisiana in raising this issue of segregation. To me that is not the thing that is present here at all. I am seeking equality of economic opportunity in this bill, and it has nothing to do, in my judgment, with the question of segregation. I would like to see everybody working together, shoulder to shoulder. I don't want to see segregation in employment, and it seems to me we can bring about understanding by human contacts. Now, can it be done in the first instance by the educational and conciliation process? I think we need to experiment with that before we insist that legal sanction be applied. Or is it your judgment that we will not get to first base on that principle unless we have legal sanction behind it?

Mr. REUTHER. I would say that we made progress through conciliation and through the process of sweating it out, because behind us we had the weight and the prestige of Government, and I don't think, unless you have the law that has alternate legal sanctions to back it up, you will be able to get the kind of response that is necessary. I think the bill as now written—and I have gone over it carefully—creates the kind of practical machinery where you get together at the community level, the State level, and the National level, people who are men of good will and people who represent the community in its various economic and social groups, and I believe that there is enough discretionary flexibility in the machinery that the law provides for, that you can do this job. No intelligent citizen who would be charged with the administrative responsibility of carrying out the letter and spirit of the law would mechanically approach the problem in one community,

and then attempt to go to some other part of the country and apply the same approach mechanically there. Those are matters of judgment, and I say if a man has intelligence, character, and a little bit of common horse sense, he can handle this thing in such a way that you can make progress even in situations where you have got very rigid patterns in respect to this problem.

I personally think that if you do not have legal sanctions to back it up you are taking the teeth out of the law, and I think the law must have teeth.

Senator SMITH. I would like to leave that optional.

Mr. REUTHER. If you make it optional; you are taking out its effectiveness, because where you need it most you don't have it. That is the tragedy of it. The people who are willing to be good citizens will be willing to be good citizens without a law, but with the people who are not going to be good citizens you need the law to keep them in line.

Senator SMITH. We tried the prohibition law too and found it wouldn't work.

Mr. REUTHER. The prohibition law was a little bit different. To deny a man the right to indulge in the consumption of certain beverages is one kind of animal, and to deny him the economic opportunity to earn a living for his family is something entirely different. The right to work, the right to earn a living for your family, is a basic human right as well as a property right.

Senator SMITH. I agree with you.

Mr. REUTHER. You cannot make a parallel between them. I personally do not drink, but I certainly would be opposed to saying that the other fellow cannot drink. I think some people drink too much, but that is a matter of one's personal habits about which you cannot legislate. But when you talk about the right to work, the right to job opportunity, you are dealing with a much more fundamental thing, and society must protect that fundamental right.

Senator SMITH. I agree with that; but I can see also if that right is compelled by legal mandate a very difficult situation is presented for the poor fellow who has been given that right by mandate. I see difficulty there. I am not saying that you should not do it that way, but I want to explore that before I put it into law.

I want to consider the educational and conciliation processes.

Mr. REUTHER. I think the mandate of governmental sanction is necessary to bolster up and supplement, augment this educational process to have conciliation, give and take, and so forth, and I think if you take it out you are going to seriously undermine the effectiveness of the conciliation process, and so forth.

Senator DONNELLY. Isn't the opposite also true, that if you employ the mandate, the sanction, you are going to destroy the educational and the conciliation processes?

Mr. REUTHER. I think the law, the way it is drawn up, would establish a happy balance between governmental sanction and the use of these conciliatory functions and give and take in discussion. I think it is a happy balance.

Senator SMITH. Understand my suggestion now, Mr. Reuther. I am carrying everything in this bill up to section 8, which carries the legal sanction, the legal mandate—everything else, all the other proceedings, the investigation, the recommendations to the Commission:

"This is our finding; these are the facts. We recommend that this is the case." Then the remedy there is—in case my thought is right—simply that the Commission make its report: "We find in this case such-and-such a violation," and the public would be informed by showing up just what is being done. And you would show up also, definitely, whether better results could be obtained by the application of sanctions which are to be applied by law, or whether better results can be obtained in those areas where educational and conciliatory methods have been used. My good friends from the Southern States have felt that the educational processes could be brought about and get just as good or better results, and I am simply asking whether we are justified, in the earlier stages, in developing this sound principle, which I am so much for. I think it is one of the biggest issues before the country today. We should proceed by the trial and error method and see if we cannot get results at the beginning without having the arm of the law clamped down. That is all I am getting at, because I cannot imagine you can establish by any law passed or by any sanction established by law, the right kind of human relations among people.

We want to have human understanding and human agreement and human affection, if you will, between those workers, and I am just wondering whether we should start by stating, "You must take So-and-So, and you must live with this and you must be happy with him," when we know that the thing cannot be done by that law. You may be right in your position. I am not denying that you may have to leave this provision in, because I am not convinced myself. I am simply throwing this out as something to be explored—and other witnesses have said it should be employed, and I am just wondering whether the trial and error method ought not to be used in the early years, we will say, trying to work this out, and whether we can get the entire Congress and all the States of the Union to accept these principles, believe in them, believe in the investigative Commission, believe in studying each individual case brought up. Some of us are not prepared to put teeth into the law, but rather we say: "All right, you try it and show us that you do need teeth in the law."

MR. REUTHER. I sincerely appreciate your attitude and I think it is very commendable, Senator. I think, however, that this whole question of sanctions is the key to the thing. In our union, for example, we made greater progress when we got constitutional sanction to back up our machinery.

Senator SMITH. You said yourself you did not use mandates, that you sweated it out and conciliated. Now, I believe in sweating out and conciliating.

MR. REUTHER. I do too, but behind the sweating-out process we had the sanction. Our constitution says you just can't discriminate, and we won't tolerate discrimination.

Senator SMITH. Then you believe in what Theodore Roosevelt said, "Walk softly and carry a big stick!"

MR. REUTHER. I think that is a very good combination. I think democratic people have to use that.

Senator SMITH. It is good as between individuals as well as between nations?

MR. REUTHER. Yes; a smaller stick, but I am for having a stick big enough, and without sanctions it isn't big enough.

Senator DONNELL. This bill has a very big stick, namely the power of the court to commit to jail and impose fines for contempt.

Mr. REUTHER. If you evade your income tax, you are dealt with severely.

Senator DONNELL. I say the bill does have force, doesn't it?

Mr. REUTHER. Yes, sir.

Senator DONNELL. And you regard that as essential for the success of the bill?

Mr. REUTHER. That is right. Just as our union constitution has force behind it. You can be expelled from the union if you won't go along with this provision. Certainly I am for all the persuasion, I am for all of the educational processes being explored, being exhausted; I am for persuasion, for spreading the thing out; I am for all the patience of Job, but after you have done all this and the wrong is still there despite these things, I say that of necessity you have got to have sanctions, otherwise you have gone through a very nice, elaborate process here with a dead-end street.

Our experience in the union has been that the sweating-out process will do the job if it is backed up by the sanctions. And I think the same is true of this law.

Senator DONNELL. Mr. Reuther, this word "sanction" is used around here so many times, and I think is generally understood, but I have a more clear understanding when I use the word "force." That is what it means, isn't it? In other words, you have in mind conciliation first. You think this bill is excellent in that respect?

Mr. REUTHER. The machinery is very sound.

Senator DONNELL. You believe that is sound. You believe it is important to educate, to conciliate, to persuade, but ultimately you think there must be force which, if necessary to be applied, can be applied?

Mr. REUTHER. I would like to use "authority" instead of "force."

Senator DONNELL. Force is what it is, isn't it? When a court imposes a decree that is done by force.

Mr. REUTHER. I think it is a matter of authority.

Senator DONNELL. Well, the authority to impose a decree and enforce the decree. That is what you mean, isn't it?

Mr. REUTHER. That is right.

Senator DONNELL. And that is what this bill has.

Mr. REUTHER. That is right. Civilized man could not survive unless he had that.

Senator DONNELL. That is what this bill has, and that is what you regard as important to its success?

Mr. REUTHER. I consider it absolutely essential that the processes of conciliation, education, and persuasion be augmented and supported ultimately by the sanction of governmental authority.

Senator DONNELL. Well, that means by the authority of the court to enforce the order of the Commission requiring persons to cease and desist from an unlawful employment practice.

Mr. REUTHER. By due process.

Senator DONNELL. In other words, you referred a little while ago to something about the mechanical processes of enforcement in different sections of the country, enforcement of the same law. Now, let us see if I understand you on that.

We will take this bill, for instance, which authorizes the Commission to issue—and I quote exactly from the bill—

an order requiring a person to cease and desist from unlawful employment practices, and to take such affirmative action, including reinstatement or hiring of employees, as will effectuate the policies of the act.

Now, there is an order of the Commission. Would you favor that that order, if made in California, should be enforced if it is not voluntarily complied with?

Mr. REUTHER. I am in favor of complete compliance everywhere, after you have exhausted these processes of trying to persuade and sweat it out.

Senator DONNELL. I understand, but what I am getting to is the "big stick," which follows after all these provisions about conciliation, and so forth, in the bill, as I understand it, and properly so. What I am getting at is this: If it comes to the point where there is a complaint made to the Commission that an employer is failing to comply with the law, is violating the law, namely, is discriminating against somebody on the ground of race, color, religion, national origin, ancestry, and the Commission issues its order requiring that particular employer to cease and desist from this unlawful employment practice, and to employ or reinstate the employees so as to effectuate the policies of the act, and if the employer does not follow and observe and obey that order, do you favor enforcing the order?

Mr. REUTHER. I positively do.

Senator DONNELL. Are you in favor of doing that in California, in New York, in Mississippi, in Alabama, Missouri, Minnesota, and Michigan?

Mr. REUTHER. I am in favor of applying that in every State in the Union.

Senator DONNELL. In other words, you would not follow a policy, as I understand you—I want this to be clear for the record, and I am asking this because you mentioned something about different mechanical processes in different sections of the country—you are in favor, if it comes right to a showdown where an employer fails to observe the law, you are in favor of the enforcement of the law in each and every section of the United States, without discrimination and without hesitancy?

Mr. REUTHER. That is correct. I say that in the process of trying to conciliate and persuade, you do not apply a mechanical formula. You have to use common sense and judgment. If I am talking to people in Mississippi, members of our union who have this kind of problem, I approach them firmly and I attempt to get them to accept the basic principles of the job directive; on that we do not change; that remains fixed; but that in the approach you make, in the way you try to handle it, you use judgment. But the ultimate enforcement of the law, I say, must be on a completely uniform basis, regardless of the method used.

Senator SMITH. Right at that point, I think you hit it fairly well there, Mr. Reuther, just now, but it appears to me that in the discussion that you and the chairman are having you are omitting very much the considering of the Commission itself and the discretion and judgment and deliberation and determination which is finally made by that Commission. I gather from what you said at an earlier time

in your remarks, that have been very helpful, that you feel that the Commission itself has got to use a great deal of discretion and discerning.

Mr. REUTHER. That is right.

Senator SMITH. And that you cannot carry this thing out uniformly in every single section of the country according to a given specific pattern? That is right, isn't it?

Mr. REUTHER. That is correct.

Senator SMITH. That is what I gathered, and I am trying to clear this thing up between the chairman and yourself. I think there is a variation there that is left with the Commission for its determination and decision, which can be considered, and properly so, while this thing is gradually making headway. That is your idea, is it not?

Mr. REUTHER. My feeling is that the administrative structure and personnel that would make it up have very broad latitude and discretionary power, and when they move into a situation, the exercise of judgment within that area of discretion is sufficiently broad to meet the practical problems that they will encounter.

Senator DONNELL. Just at that point, Senator—I think this is extremely important, and that there should be no possible misunderstanding in this situation as to what we are doing when we pass this law.

Personally I feel just as Mr. Reuther has expressed himself; namely, that if there should be an order issued by the Commission and it is not complied with, there should be an enforcement of compliance with that order in every State in the Union, without exception and without fear or delay. If I vote for this bill in this committee or on the floor of the Senate, I am going to vote on the theory that it is going to be enforced to the letter and to the full, complete content of the law. I do not understand there is any discretion left in this Commission with respect to the issuance of orders requiring cessation and desistance, in the event that the Commission finds that any person named in the written charge has engaged in any unlawful employment practices.

As I understand this bill—and I will ask Mr. Reuther if he disagrees in any way with this—as I understand it, the Commission does have the power to use every reasonable good judgment in the conciliatory process, and I think properly so. I think it may well be that in one particular section it may take a longer time for persuasion, longer effort, more detailed explanation of the purposes behind the bill in the course of conciliation than in some other sections of the country, but once the conciliatory method has been applied, once it has been thoroughly explored with the exercise of good judgment, once there has been a determination that an unlawful practice exists, once there has been a charge made to the Commission that that unlawful practice does exist, I think the discretion of the Commission ceases at that point, and that, as stated on page 11 of the bill, if upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice, and to take such affirmative action, including reinstatement or hiring of employees,

with or without back pay, as will effectuate the policies of the act—I understand that up to that point there is the situation that I have described, the effort by the exercise of good judgment, some discretion in the course of the conciliatory process, but once the charge has been filed, once it has been determined that there has been engaged in an unlawful practice, the Commission shall, to quote this language, “issue its order to cease and desist.”

Now, I do think the bill contains some doubtful provisions shortly thereafter in the section on judicial review where it says the Commission shall have power to petition any certain court of appeals of the United States, and so forth, for the enforcement of the order. On the other hand, it would appear to me to be a highly discriminatory construction of the bill for the Commission to say, “We will apply it in one section of the country and not apply it in another section of the country.” I think that when the Commission has once issued its order, it appears to me that the Commission ought to enforce that order everywhere alike.

Furthermore, I think that the further section of the bill which says that any person aggrieved by a final order may obtain a review of the order gives, in the event of failure on the part of the Commission to take action, the right to the person aggrieved to have a review of the order.

Do you think, Mr. Reuther, I have correctly described the operation and provisions of this bill with respect to the enforcement phases of it?

MR. REUTHER. I would say that I think generally you have stated the case properly, excepting I think you are attempting to amplify the problem, because I personally believe that if the discretion and the judgment which the bill permits the Commission to exercise is carried out by men of high character and sound judgment and good will, I think that the problem which you think will arise will not be nearly as great as your remarks would reflect you anticipate they will be. I do not believe that if you have a commission of men who understand the problem and who are motivated by a sincere desire to make progress, not to make a record but to make progress in respect to this problem of human relations, I think that in the area of their judgment and discretion they will proceed with caution, so that the problem that you project will be minimized greatly, and the problems that you think will grow up will be in a very small number of the total cases coming before the Commission. We have had the same problem, and our experience has been exactly that.

Senator DONNELL. May I interrupt you just at that point, without discourtesy, so that I may state my position at this point in the record?

I am not undertaking to render any prophecy as to the extent of this problem. I have not undertaken to do that or to intimate any conclusion along that line. It may well be, as you say, that with the discussions in the conciliatory phases there will be a much smaller ultimate number of problems than many persons anticipate. That is entirely possible, but the point I want to have perfectly clear on this record so that the Nation will understand is that if we pass this bill we are not going to pass a milk-and-water affair that will be enforced somewhere and will not be enforced somewhere else. I want it made clear that this bill says, namely, as I have indicated, that if upon the record the Commission shall find that any person named in the written charge is engaged in unlawful employment practices, the Commission

shall issue and cause to be served on such person an order requiring him to cease and desist.

I want it clear that we are not just passing something here that may be enforced somewhere and not enforced somewhere else. This is a law, and ought to be a law, as I see it, that will be enforced uniformly.

I agree with you that you cannot have a law that does not have legal authority and force behind it, and make it a law. It may be a declaration of policy; perhaps it ought to be merely a declaration of policy; but I mean it will not be a law in the sense that it will be something that can be made binding on all the people. Perhaps I should not have said it ought to be merely an expression of policy. I think you can pass a law that is merely an expression, perhaps, of policy. You may pass something in the form of law, but I am talking about something that can really be made binding on the public. You can do that, I think, only by having a legal authority of force behind it. I just want to make it perfectly clear here that if we pass this bill we are passing something that has teeth in it. And you think the teeth are essential?

Mr. REUTHER. Absolutely.

Senator DONNELL. And I think as you do, that this bill, if once passed, ought to be enforced from Maine to Florida and from Florida to California and up to Oregon, and back again to Maine; I want to include Washington, too, along with Oregon.

Senator SMITH. Mr. Chairman, all I want to bring out there is what I have been trying to bring out in my suggestions: I don't like to emphasize the fact that we are going to enforce laws as much as we are going to try to have the fundamental principle of nondiscrimination and economic opportunity the big objective we are after. I am not saying, "You must do this." We are going to say to the people, "This is the policy, this is the fundamental principle of the United States Government, the fundamental principle of the American people, and we are going to try, by working together, to bring this about."

The only difference between the chairman and myself is whether, in the process of developing, establishing this policy, where we find people who are not adequately educated up to it, whether it will be wiser to try it in areas where they claim they can bring about the same result by conciliation and education, exactly as you have done in the CIO. You did not start with mandates. You started with a conciliation policy. Probably you are correct, under the constitutional provisions here, in feeling that there must be some kind of sanction behind it. That may be the right view, but I am just hesitant about putting a must in a thing like this until we have learned by experience that the must is essential. If it is, I will go along with anybody else, because the principle has to be established. I agree with that.

Mr. REUTHER. I think the must is essential. I think there is a tendency to minimize the real effectiveness of the conciliation process.

Senator SMITH. So do I.

Mr. REUTHER. But I think we can do a good job if the must is there and everybody knows it, written there in bold letters.

Senator SMITH. I think you could do the job if the must were not there.

Mr. REUTHER. Personally, I think that if you had a bill passed without teeth in it, you are laying out a long list of fancy principles,

when the real problem is not to have more slogans in the world; the real problem is to begin translating slogans into practical things.

Senator ELLENDER. You realize that although you have stated that the FEPC worked admirably well during the war, there was no force to it, you agree it was purely voluntary?

Mr. REUTHER. No; I said it carried the weight of Government authority.

Senator ELLENDER. But I say it was on a voluntary basis.

Mr. REUTHER. But it carried great weight. You have got to remember that it had the weight of the Government behind it, plus the fact that we had the war situation, we had all the emotional forces that we were able to mobilize behind winning the war. We had the actual manpower shortage. Now we haven't got the emotional drive of the war; we haven't got the critical manpower shortages; and if you are going to do this job you have got to have a law that has teeth in it, but within the structure of the administrative machinery you have got to have discretion, you have got to have the best use of that discretion in order to try to exhaust the possibilities of working out the problem by education and conciliation, but failing in that, you have got to have some sort of authority of government to fall back on.

Senator DONNELL. Right at that point I want to make it perfectly clear that I am not minimizing the importance of the conciliatory features of this bill. I believe thoroughly that these are absolutely essential. I am in favor of the conciliatory features of the bill. I am in favor of the high objective of the prohibition of discrimination because of race, religion, color, national origin, ancestry. I do appreciate the great importance of every possible effort being made by friendly conference to achieve these ends, but the point I am trying to make is that this bill as it is drawn has within it force, and your testimony is, and I concur with your view on that, that in order to make this particular bill effective we have got to have some force somewhere in order to carry out its provisions. I am not drawing any ultimate conclusions as to the wisdom or lack of wisdom of the bill, but my primary point is that while the bill contains provisions for conciliation, and those are laudable and commendatory and should be left in the bill and carried out in spirit and in truth, I want it clear as to what this bill does, so that the people over the country will not get the idea when we pass this bill that we have passed something that does not have any teeth in it, because it does.

Mr. REUTHER. I would like to say that under the FEPC, while it was not acting under law—it was an Executive order of the President under emergency war powers—it did carry some governmental compulsion and some authority, because all of the governmental agencies that were involved in the total war effort had to allocate material quotas, and they had to place contracts, and all sorts of pressure of the Government could be brought to bear on the employer that refused to go along, so there was, even though you did not have a law, because of the war situation and the fact that governmental agencies were controlling the procurement program and the material allocation program and all that, they were able to exert the kind of pressure on employers that was required to get them in line. They were also able to exert pressure on the unions when they were out of line. And I just think, gentlemen, that a law without teeth is no better than no law at all,

and that is what you need here, the maximum use of discretion and persuasion, backed up by authority where it is needed, and I personally think that that combination will reduce the problem to the minimum, and that the difficulties are being exaggerated, and I think the practical problems can be met by practical men. We have done it, and I think that certainly this country can do it.

Senator SMITH. For the purpose of the record I would like further to make clear what I have been exploring here. I never have advocated that section 14 on page 19 be eliminated from this bill, which reads as follows:

Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this act, or because of such performance, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 1 year, or by both.

I still think that the Commission must go ahead, operate, and all I say with regard to section 8, which is the legal section, is that in those jurisdictions where within a certain given time they take affirmative action by reason of a legislative measure passed by the representative of people of a State, whether we should further try out educational and conciliatory processes rather than resort to the legal sanction, give them an opportunity to demonstrate whether they can carry out the spirit of the act in those States, any State, that has by affirmative legislative action taken a position contrary to the act.

Mr. REUTHER. I should say that the way the law stands now we can do practically what you want, but it gives the Commission the additional weapon to use where, in their discretion, they need it.

Senator SMITH. My mind is not made up on this. I am looking for information. I see we are going to have before us the chairman of the New York State commission, Colonel Garside, and my friend, Mr. Joseph Bustard, deputy director of State Education of New Jersey, and we have these commissioners, both from New York and New Jersey, and I think the Massachusetts representatives are coming down to give us their views from the practical attempt to adjust these things to the extent to which they feel the teeth in the law are necessary. I am very grateful to you, Mr. Reuther, for the statement you have made this morning.

Senator ELLENDER. Just one more question, Mr. Reuther. You have had quite a lot of experience in contacting employers with respect to discrimination. I wonder if you would be good enough to tell us, for the record, some of the main reasons why employers practice discrimination.

Mr. REUTHER. I really do not know the answer to that, other than I think the employers have prejudices, the same as people who are employed. They certainly do not discriminate because Negro workers are not skilled, because Negro workers have proven their skill. I think that discrimination mostly is a matter of attitudes, prejudices. I don't think there is any sound economic basis for discrimination.

Senator ELLENDER. I didn't ask for that. I asked whether or not you knew from your experience whether or not any employers had offered reasons, and if they have what are they?

Mr. REUTHER. The standard excuse—not a reason, but an excuse—the standard excuse that an employer gives for discriminating against employing Negroes is he says, "Why, the people in the plant don't

want to work with them." That is the way they attempt to pass on the blame for their failure to meet the issue, pass it on to the workers, but when the agency that represents the workers comes to the front office and says, "We want such a clause in the contract," it is quite hard for them to prove that the fellows back in the shop for whom we speak don't want the clause.

Senator ELLENDER. Does productivity have anything to do with it?

Mr. REUTHER. None whatever. There are no sound economic or operational arguments against the employment of Negroes. It is simply a matter of prejudice. Of course, they don't get up and defend it, because they know that is wrong. There are lots of excuses but no good reasons.

Senator IVES. What do you think, Mr. Reuther, is the most important feature in this bill, in its provisions?

Mr. REUTHER. I think the machinery that is set up to sweat this thing out is the most important.

Senator IVES. Conciliation and mediation?

Mr. REUTHER. Yes.

Senator IVES. Which are compulsory.

Mr. REUTHER. That is where the job is going to be done. That is where the great bulk of the cases will be worked out.

Senator IVES. And you would exercise those two functions, or that one function—they are virtually the same—to the utmost?

Mr. REUTHER. That is right.

Senator IVES. You will use those just as far as you can, and only resort to the penalty provisions in the end, when you cannot do anything else?

Mr. REUTHER. That is correct.

Senator IVES. And you will use them very infrequently.

Mr. REUTHER. That is right. I believe that if we make the most of the machinery of conciliation and persuasion which the law provides, it will be in very rare cases that we will have to resort to legal sanctions, but we want the legal sanctions there when they are needed. I believe in keeping the powder dry.

Senator IVES. Well, your conciliation and mediation machinery would not amount to much if there was no possibility of force behind it.

Mr. REUTHER. It would be a formality. That is all.

Senator DONNELL. Is there anything further? If not, we thank you, Mr. Reuther.

Mr. REUTHER. I thank you, gentlemen, for your attention.

(Mr. Reuther submitted the following brief:)

BRIEF SUBMITTED BY WALTER P. REUTHER, PRESIDENT, UNITED AUTOMOBILE, AIRCRAFT, AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO) BEFORE THE SUBCOMMITTEE ON ANTIDISCRIMINATION LEGISLATION OF THE UNITED STATES SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

My name is Walter Reuther. I am president of the United Automobile, Aircraft, and Agricultural Implement Workers, CIO, and vice president of the Congress of Industrial Organizations. I am testifying in support of S. 984, as a representative of the UAW-CIO, whose executive board has endorsed S. 984, as a personal representative of President Philip Murray, of the CIO, and in my own behalf as a citizen and resident of the State of Michigan.

I was born in Wheeling, W. Va., on September 1, 1907. I came to Detroit as a tool and die maker and was first employed in the industry in February 1927, and have been associated with the industry since that date. I have been active in the

UAW-CIO since its inception. I was elected to the executive board of the union in 1936, serving as a board member until 1942, when I was elected vice president. I was vice president of the union from 1942 until 1946 when I was elected president by delegates to the tenth convention of the union. In November 1946 I was elected vice president of the CIO. In addition to serving as UAW-CIO president, I am director of the union's fair practices and antidiscrimination department.

CIO AND UAW-CIO STAND AGAINST DISCRIMINATION

The experience of the CIO and of the UAW-CIO in combating discrimination in employment during the past 10 years offers a case history in effective democratic action which at the same time points to the need for Federal legislation. The vigor with which the UAW has pressed for the full integration of minority workers both into the union and the industry, while dramatic testimony to the potentialities of voluntary group action, serves also to underscore the severe limitations of such action and the urgent need for the community to supplement and reinforce voluntary effort by legislative enactment of laws upholding fair play in employment.

The Congress of Industrial Organizations, as the name implies, is the parent body of affiliated international unions organized on an industrial rather than on a craft basis. Whereas craft unionism is exclusive unionism, industrial unionism rests on the principle and practice of including within its membership all working men and women employed in the industries within a union's jurisdiction, without regard to the type of work performed or the religion, race, creed, color, or national origin of the worker. While the leadership of the CIO and of its affiliated international unions have consistently recognized the clear moral obligation to resist discrimination as both un-Christian and undemocratic, the ethical imperative has been given practical cogency by the facts of a mass-production economy. For years prior to the rise of the CIO in the automobile industry, repeated attempts to organize auto workers on a craft basis met with failure. The lesson was driven home to active union members: The UAW-CIO owes its birth and its continued existence to the principle of nondiscrimination—and to the trade-union solidarity of all auto workers, without regard to craft or group distinction.

THE DETROIT RIOT OF 1943

It was clear that the problem of minorities in an industrial union could have only one intelligent solution: There could be no second-class union members. Negroes and all other minority-group workers must be fully integrated and must enjoy absolute equality and freedom to participate in all union activities. Any other course would constitute a retreat from the CIO program to "organize the unorganized," the central concept of industrial unionism and the source of labor's strength in the mass-production industries.

It was indeed fortunate that the leadership and so much of the active rank-and-file of the UAW-CIO had learned that lesson well, for the wisdom gained bore fruit during the tragic days of the Detroit riot in June 1943.

It is impossible to calculate the extent of violence and the death toll which Detroit might have suffered in that bitter period had there not been the stabilizing influence and discipline of the UAW-CIO in the auto plants of Detroit. The importance of this factor was stressed by Attorney General Francis Biddle in a report to President Roosevelt. Summarizing evidence drawn from conferences with State and municipal officials and from investigations of the FBI, Biddle wrote:

"It is extremely interesting that there was no disorder within plants, where colored and white men worked side by side, on account of efficient union discipline."

At the bench and on the assembly line, where white and colored men had undergone the everyday experience of discovering each other's common humanity, there was no violence. The UAW-CIO, through the practice of democracy in the shop and in the union halls, had created an oasis of sanity in a city gone mad with frustration, bitterness, bigotry, and brutality. That the oasis was so pitifully small was proof only that the most determined action of the union to eliminate discrimination and to achieve fair practices was bound to fall short of unqualified success, for the simple reason that one institution, the UAW, was contending with the manifold aspects of a problem too great to be solved by anything less than vigorous community action, both educational and legislative.

UAW-CIO FAIR PRACTICES COMMITTEE

Nevertheless, there was no disposition among UAW-CIO leaders to abandon the union campaign for fair practices, either within the membership or in the industry. On October 5, 1944, the international executive board unanimously approved the establishment within the union of a fair practices committee composed of six top officers and board members, with a full-time executive director.

The committee functioned until the tenth convention of the union, in March 1946, when it was replaced by the fair practices and antidiscrimination department. In addition to the investigation of complaints of discrimination in local unions and to educational activities such as publication of posters and pamphlets, the committee prepared a "no-discrimination clause" and sought to have it included in all contracts negotiated by the union.

While some success has been obtained in getting employer acceptance of a no-discrimination policy as applied to employees already working in the plant, it is significant that, with few exceptions, employers have not accepted a no-discrimination clause as applied to hiring.

UAW-CIO LACKS VOICE IN HIRING

To understand the ultimate inability of the union to implement its anti-discrimination policy in the absence of supporting municipal, State, and Federal fair practice legislation, it is necessary to appreciate the severe limitations under which the UAW-CIO seeks to realize its goal of fair play in employment.

Equality of economic opportunity is a phrase without substance unless that equality exists at the hiring gate. The UAW-CIO has no control over hiring. Even where we have maintenance-of-membership or union-shop contracts, the union has no contractual influence over prospective employees. Union members are recruited from workers already screened and selected by management. The union's antidiscrimination policy thus operates under the severest of handicaps—the impotence of the union to enforce fair play in hiring.

In the absence of closed shop agreements and union hiring halls, the union's experiment in economic democracy runs up against the employer's "prerogative" of rejecting Negroes or members of other minority groups. Inclusion of a no-discrimination clause in a contract will remain an empty gesture unless the employer voluntarily implements it, as long as the community fails to give legislative support to the principle of equal employment opportunity. The phrase, "the right to work," will remain a cynical and meaningless shibboleth as long as a Negro, Jew, Catholic or any other minority-group worker suffers the indignity of economic ostracism because of race, creed, color, or national origin.

It is incumbent upon Government, as an agency of all the people, to invoke sanctions against discrimination in hiring. Through such legislation as S. 984, the community could give substance to the phrase "the right to work," by protecting all those seeking employment in industries and plants both organized and unorganized.

THE WAR EXPERIENCE

Working within the severe limitations imposed by the employer's control over hiring, the UAW-CIO has persisted since the war's end and the dissolution of the President's Committee on Fair Employment Practices, in pushing the anti-discrimination fight within the automobile industry. Yet ever-present in the minds of those most actively concerned with the union's fair practices campaign is the realization, born of the wartime experience, that discrimination in employment can be abolished entirely only by aggressive governmental action.

Negro resentment against the discriminatory patterns downing them to second-class citizenship assumed explosive proportions in the summer of 1944, as the United States girded itself for war. On June 25, 1944, President Roosevelt issued Executive Order 8802 establishing the President's Committee on Fair Employment Practice and prohibiting discrimination in war industries. It was clear to all but the blindest bigot that the Arsenal of Democracy could not hope to speak or act authoritatively as the leader of world democracy while tolerating anti-democratic practices at home. Moreover, the practical compulsions of a mounting demand for labor rendered a continuation of discriminatory employment practices indefensible from the standpoint of hard-headed self-interest.

The UAW-CIO, still in the process of consolidating its last major organizational gain in the industry, plunged into the rough waters of conversion. In cooperating closely with the President's Committee, union leaders faced not

only employer opposition and indifference but worker hostility to the upgrading of Negroes. In several instances, it required the utmost firmness on the part of the union leadership to present or settle unauthorized stoppages arising from the refusal of white union members to work with Negroes in departments where the latter had not been employed prior to the war emergency.

Despite all the tensions and vexations of the period, Negroes did make significant gains in employment under pressure of the wartime need for labor. Establishing the FEPC had injected a new element. Union policy of adhering strictly to seniority in the matter of filling vacancies in better job classifications now received the support of government.

The most important lesson which can be drawn from the war period for the guidance of those who today are considering the need for fair employment practices legislation is the lesson of firmness by the Government, labor and management as the clue to success in barring discrimination. The intervention of a Federal FEPC eliminated the possibility of labor-management deadlock and provided the leverage of governmental authority. Whenever resistance to upgrading of Negroes was encountered in a plant, a firm attitude by labor, management, and Government could quickly overcome that resistance, and the initial hostility and tension were soon dissipated as whites and Negroes worked together. Government intervention, moreover, filled the gap left by labor's inability to assure fair play in hiring.

This combination of factors resulted in a marked increase in Negro employment in semiskilled and skilled categories. Bureau of the Census figures indicate that whereas Negro men employed as craftsmen constituted 4.4 percent of Negro men employed in April 1940, they were 7.3 percent in April 1944. Negroes in the semiskilled category of "operative" constituted 12.6 percent of employed Negroes in April 1940, and 22.4 percent in April 1944. While these are national figures, they reflect the general trend in the Detroit area.

The wartime FEPC lacked enforcement powers. This proved less of a weakness at the time than was anticipated, for certain indirect sanctions could be applied. Moreover, the prestige of the Government as the almost sole employer in a period of national crisis, combined with the pressures of the tightest labor market in our history, proved sufficient in all but a few instances to assure compliance.

UAW-CIO FAIR PRACTICES DEPARTMENT

The UAW-CIO Fair Practices Committee had a close working arrangement with the President's Committee. The FEPC kept the union agency informed of the progress of all cases involving either the union or employers with whom the UAW had agreements; the union cooperated with FEPC in the investigation and adjustment of all cases in which the UAW had a legitimate interest.

It is highly significant, and pertinent to current hearings on S. 984, that both the wartime FEPC and the UAW Fair Practices Committee in its adjustment of intraunion complaints found that the vast majority of cases were settled without formal hearings, in the earliest stages of informal interview and conciliation. It is probable that the enforcement powers provided in S. 984 would have to be exercised but rarely. The bill makes ample provision for adjustment through education, interview, and conciliation. The State Commission Against Discrimination in New York has had a similar experience. It seems reasonable to conclude that when the sanctions available under the law are adequate, it will be necessary to invoke them only in instances of extreme difficulty.

Shortly before the dissolution of the President's Committee on Fair Employment Practices, delegates to the tenth convention of the UAW-CIO revised the union constitution in order to accelerate the pace of the union's struggle against discrimination.

The Fair Practices and Antidiscrimination Department thus established on March 27, 1946, had a clearer mandate, a firmer base, and a more efficient procedure than the committee it replaced. Article 25 of the UAW-CIO International Constitution reads as follows:

"Section 1. There is hereby created a department to be known as the Fair Practices and Antidiscrimination Department of the International Union.

"Sec. 2. The international president shall appoint a committee composed of international executive board members to handle the functions of this department. He shall also appoint a director who shall be a member of the union and approved by the international executive board. He shall also appoint a staff which shall be qualified by previous experience and training in the field of interracial, inter-faith, and intercultural relations.

"Sec. 3. One cent per month per dues-paying member of the per capita forwarded to the international union by local unions shall be used as the fair practices and antidiscrimination fund of the international union as provided in this constitution.

"Sec. 4. The department shall be charged with the duty of implementing the policies of the international union dealing with discrimination, as these policies are set forth in the international constitution and as they may be evidenced by action of the international executive board and of international conventions, and to give all possible assistance and guidance to local unions in the furtherance of their duties as set forth in this article, and to carry out such further duties as may be assigned to it from time to time by the international president or the international executive board.

"Sec. 5. It shall be mandatory that each local union set up a fair practices and antidiscrimination committee. The specified duties of this committee shall be to promote fair employment practices and endeavor to eliminate discrimination affecting the welfare of the individual members of the local union, the international union, the labor movement, and the Nation."

The impact of the department's educational program and adjustment procedure has been felt throughout the international union and in many of the communities where members of the UAW live. In the 10 months of active operation since the executive board approved its procedures on August 17, 1946, local after local union has called upon the department for assistance in building a fair practices program. One cannot estimate the subtle persuasive force set in motion by this activity. It has clearly involved a considerable shift in attitudes among wide sections of the membership.

It should be emphasized that the UAW fair practices department has broader responsibilities than a governmental agency concerned with employment practices alone. In addition to functioning in behalf of minority group members charging discrimination in some aspect of employment, the department operates as a specialized division of the union's educational apparatus, seeking to break down those deep-seated prejudices and group assumptions which linger in men's minds long after they have nominally committed themselves, through union membership, to more rational and democratic behavior.

An attack on these stubbornly held emotions and attitudes wins no easy victories, particularly when, as has been true during the past year and more, government on the municipal, State, and National levels has not met its responsibility, either in the area of fair practices legislation or in providing the economic environment of confidence so essential to intergroup cooperation.

The department has sought, under these unfavorable conditions of governmental laxity and economic dislocation, to build local union fair practices programs as an integral part of union and community life. The means adopted toward accomplishment of this end in the local has been to include on the local fair practices committee one member from each of the other principal committees—the education committee, the women's committee, the political action committee, and the bargaining committee. The interlocking committee-membership plan draws the fair practices program into every aspect of local union activity.

The fair practices department has published a Handbook for Local Union Fair Practices Committees, setting forth in clear detail the functions of the department and of the local committees and outlining the complaint and appeal procedures for implementing the union's antidiscrimination policy. Each regional director of the international union is directed to appoint one staff member who shall be regularly assigned to working with local unions in the region on the fair practices program. An advisory council on discrimination, composed of an international representative from each region, with international officers, regional directors, and department heads as ex officio members, convenes semi-annually to evaluate the union's fair practices program and make recommendations for its improvement.

In every case, stress is placed on conciliation and persuasion. Local union autonomy is respected; local union membership is given an opportunity to act on each case. In all cases, however, the complainant has the right to appeal decisions made in the local union, the procedure providing clear access to the international department, the fair practices committee of the executive board, the board itself, and, if necessary, the international convention, the UAW's highest court of appeal.

The extent to which the import of the UAW fair practices program will be felt in the broader community is determined largely by the leadership of the local union fair practices committee and by the amount of enthusiasm for and

cooperation with the program on the part of local union leadership. In some locals, there is resistance to the program and to the institution of a fair practices committee. In the city of Pontiac, on the other hand, the regional office and local fair practices committees are developing one of the most ambitious fair practices programs in the country.

The department continues to push the campaign to win employer acceptance of the model no-discrimination clause, negotiation of which has been national CIO policy since November 1944. However, the UAW-CIO is fully aware, in the words of the fourth quarterly report of the fair practices department, that "incorporation of a model clause without specific seniority provisions for promotion, transfer, upgrading, etc., may be only window dressing. The real test of fair practices is understanding by the union and management with respect to equal opportunities at the employment gate and equal opportunities for all jobs within the plant or seniority unit."

Proceeding on that realistic assumption, the department is making a particular effort to persuade local unions to improve seniority provisions, with emphasis on the need to revise departmental seniority patterns traditionally prejudicial to the status of minority workers. The fourth quarterly report includes the following statement:

"In order that adequate consideration may be given to all members of the union and consistent with the basic principles of industrial unionism, without reference to race, color, creed, or sex, the fair practices and antidiscrimination department recommends that where such customs or patterns prevail and industrial minority groups are identified with and frozen to such classifications, the local unions exert special efforts to—

"(a) Break down such patterns through appropriate provisions for transfers, upgrading, and promotions.

"(b) Negotiate toward the end of preventing continuation of these patterns at the point of hire.

"(c) Derive such provisions which will, insofar as possible, permit all workers, on the basis of seniority, to apply for more desirable jobs, consistent with the over-all interests and equity of the membership involved.

"(d) In cases of local agreements requiring international union approval, the regional office and/or the department involved shall be directed to scrutinize this aspect of local agreements before approval."

In the legislative field, the department, in conformity with CIO policy, has been active in support of local, State, and Federal FEPC measures. Local unions have been encouraged to assume leadership and participate actively in municipal and State campaigns throughout the country for fair practice legislation.

In Michigan the department has worked closely with church, professional, and various civic organizations in behalf of a State fair practices law. The department coordinated union activities in an initiative petition campaign which preceded efforts to have the legislature enact an FEPC law. Approximately 200,000 signatures were obtained on the petitions. Employer pressures, discreetly but strongly applied, prevented legislative action, while a group calling itself the Committee for Tolerance and headed by a well-known Detroit businessman, won a writ from the State supreme court that blocked a referendum on the bill.

Two specific examples of union action in behalf of minority workers appropriately conclude this summary of the department's activities.

In a large aircraft plant with which the UAW-CIO has an agreement, some 3,000 Negro men and women were employed during the war through efforts of the union and the wartime FEPC. During negotiations for a new contract shortly before VJ-day the company sought to eliminate the Negro workers by breaking down the plant-wide seniority system that represented their chief protection. The union continued to insist upon both the plant-wide seniority provisions and upon a strict application of the principle of seniority without discrimination. The company, on the other hand, proposed not only elimination of plant-wide seniority but also adoption of a quota rule for rehiring Negroes which would limit their numbers in the plant to 150.

Negotiations dragged on for several months, being frequently broken off as the company resisted union efforts to write into the new contract a provision which would assure the recall of Negroes on a strict seniority basis, without discrimination by quota. Community support was mobilized in behalf of the union's position. The company in the end retreated, accepting both the plant-wide seniority provision and the proposition of recall by strict seniority.

The union, in another instance, sought to obtain employment of qualified Negroes in the California plant of a large corporation. A resolution endorsed by

the local fair practices committee and the regional director was passed by a local union membership meeting, calling upon management to hire capable Negro workers without discrimination. Company resistance took the form of a ruling that Negroes hired would have to be between the ages of 20 and 40, with a high-school education and 1 year of overseas service in World War II, qualifications which were not required of white applicants for employment.

Even when the local union sent Negro applicants with these qualifications to the employment office they were turned away. At this point the International union entered the situation; and, as UAW president, I addressed a letter to corporation officials containing the following statement:

"Practices or policies which exclude or restrict Negroes from employment have no place in industry and are indefensible from any point of view. I trust that your immediate attention will be given this matter and that appropriate correctives will be initiated at an early date. Unless remedial action is taken by the corporation the International union will be compelled to invoke assistance of other agencies in an effort to obtain redress."

Shortly thereafter the corporation began hiring Negro workers in its California plant.

It should be emphasized that while it is possible for the union in some cases to exert these pressures, such examples are not typical of the extent to which the union can, through its unaided efforts, obtain employer compliance with a nondiscrimination policy in hiring. They illustrate the degree to which the union is prepared to support its antidiscrimination policy; they should not be construed as proof that the union, without governmental sanctions under an FEPC law, can achieve general success in enforcing a no-discrimination rule at the hiring gate.

BACK TO NORMALCY IN GROUP RELATIONS

It cannot be sufficiently emphasized that these activities of the UAW-CIO fair practices department and similar efforts of the national CIO committee to abolish discrimination have taken place, during the past 2 years, in an increasingly unfavorable environment of governmental inaction, economic re-employment, and employer reversion to prewar patterns of exclusion.

Long before the President's Committee on Fair Employment Practices formally tendered its resignation on June 28, 1946, its effectiveness had been gravely impaired through appropriation cuts and consequent loss of staff. On August 21, 1946, the national CIO committee to abolish discrimination urged the Department of Labor to establish adequate safeguards against an intensification of discrimination by the United States Employment Service, whose administration was about to pass from Federal to State controls. Under Federal administration, discriminatory practices had been moderated but never abolished, and in the Nation's Capital itself, the USES maintained segregated office facilities. The CIO warnings went unheeded; State employment services today are confirming and perpetuating community patterns of discrimination. With no local, State, or Federal agency specifically charged with enforcing the principle of equality of economic opportunity at the employment office and hiring gate, minority-group workers are again suffering from the discriminatory work order and from the buck-passing device whereby each discriminating employer points to the discriminatory practices of other employers as a community pattern which it is not his responsibility to undermine.

There has been an increasingly rapid rise in discriminatory orders in the Detroit labor market in recent months. Throughout 1946, discriminatory openings listed with USES in Detroit averaged about 22 percent of total openings listed. They were 35.1 percent in December 1946, rose to 49.7 percent in January 1947, dropped to 28.9 percent in February, climbed to 42.9 percent in March, and continued upward to 44.4 percent in April.

While the President's Committee functioned under Executive Order 8802, the USES refused to accept discriminatory orders. The policy has since been changed. While referrals are still made on a nondiscriminatory basis, the proportion of discriminatory orders grows as employers learn that the employment service will accept such orders. Nondiscriminatory referrals, while they may save the conscience of the agency, are not proof against the firm intention of an employer determined to hire white Christians only.

Had it not been for the protection of union seniority agreements, inadequate as they must always be in a period of mass employment, Negroes and women would have been displaced as a group, their traditional fate as long as the employer had sole discretion in discharging. As it was, reconversion lay-offs

left considerable numbers of Negroes untouched in those cases where they had acquired sufficient seniority.

Generally, however, the prewar patterns of discrimination imposed by management reasserted themselves, and the bulk of those Negroes remaining in the plants were confined to departments and classifications where they had traditionally been permitted.

Those who could not maintain their footholds in the plants began their economic retreat from the skilled and semiskilled down into the unskilled classifications and out of the productive into the service jobs. White workers had to make much less drastic readjustments than nonwhites. Less than one-fourth of wartime placements of nonwhite workers were in service jobs; more than half in 1947. Between 1945 and 1947, the proportion of nonwhite placements in skilled jobs was cut by more than half; that of whites, by less than a fourth. As whites shifted downward to unskilled jobs, nonwhites were forced into service jobs. Five-eighths of wartime nonwhite placements were in unskilled jobs; only three-eighths after the war. And in this category there can be no question of qualifications. The trend was evidence, therefore, not only of decreasing opportunities generally but of the resurgence of discriminatory patterns from which minority workers had won partial and temporary release during the war.

Surveys of the United States Census Bureau show that nonwhites have borne the brunt of postwar unemployment. In July 1945, 1.7 percent of white workers in the labor market were unemployed and 2 percent of nonwhite workers. In April 1947, however, 3.8 percent of the whites were unemployed and 6.7 percent of the nonwhites. In other words, unemployment among whites had increased by about 1½ times, while unemployment among nonwhites had more than tripled.

Special surveys made by the Census Bureau have shown that in October and November of 1946, unemployment was from two to three times as severe among nonwhites as compared with white workers in four out of five cities canvassed. While New York, the fifth city, showed higher unemployment among nonwhites, the proportion was less than 2 to 1. It is perhaps significant that the other cities were in States where fair-practices legislation had not been enacted, whereas New York City employers were subject to the State law against discrimination.

Discrimination in hiring is shown by the falling ratio of nonwhite placements to the total in Detroit since the war's end. Detroit's nonwhite population increased from 7.7 percent of the total in 1940 to 12.9 percent in March 1946. And unemployment among nonwhites is considerably higher than among whites. Both of these factors would lift nonwhite placements substantially above the prewar proportion if hiring were nondiscriminatory. Yet the proportion is heading downward, toward prewar levels.

In the first quarter of 1947 the number of workers hired was 1,000 greater than during the average quarter of 1941. But 100 fewer of those hired were nonwhites, despite the increase in nonwhite population.

In the first quarter of 1947, the number of workers hired was 350 less than in the first quarter of 1946. But the number of nonwhites hired was reduced by 700.

Total hires fell by 800 from the fourth quarter of 1946 to the first quarter of 1947. The entire reduction and more was borne by nonwhite, whose hires fell by 1,000.

During the war, nonwhites got more than their share only of unskilled and service jobs. They got three times their share of the latter, because whites had been drained out of domestic service and similar relatively undesirable occupations by better opportunities open to them elsewhere.

After the war, nonwhites have been getting more than their share only of the service jobs. Thus, they are being forced back to their prewar status.

UAW-410 experience since the war's end confirms the findings of the President's Committee, as stated in its final report:

"Studies made for the Committee since V-J day show that the wartime gains of Negro, Mexican-American, and Jewish workers are being dissipated through an unchecked revival of discriminatory practices. The future status of minority group workers depends, the Committee believes, on the course of action to be taken by the Congress relative to the passage of Federal fair-employment legislation."

The need for Federal action is particularly acute because States and municipalities, in the face of mounting evidence that prewar patterns of discrimination have emerged again, show for the most part only indifference or hostility toward

local attempts at passage of fair-practices legislation. A fair-practices ordinance for the city of Detroit has been blocked by a ruling of the corporation counsel that Detroit does not have adequate powers under the Home Rule Act to enforce such an ordinance. Despite an initiative petition campaign which won almost 200,000 signatures in behalf of a State FEPC law, the Michigan Legislature ignored the mandate and sat on the bill until adjournment. The State supreme court barred its presence on the ballot on the petty technicality that it had no title.

When the wartime FEPC experience can be so easily forgotten and the successful New York precedent so readily ignored, it is no wonder that workers in the field of intergroup and minority relations surrender from time to time to passing spells of despondency; no wonder that those Americans who are victims of the stupidities and blindness of exclusion and discrimination lose faith in democratic slogans and in the professed will of the democratic community to remedy a clear and cruel injustice.

THE UNWANTED TENTH

The Negro minority comprises 1 out of every 10 Americans. If those other groups most actively and persistently victimized are added, the minority problem involves one-third of the Nation. When one adds to this fact the realization that a minority's problem is the consequence of the attitudes and actions of a majority, it should be clear that democracy cannot complacently assume that a gradual, intricate, and fitful process vaguely known as "education" will somehow turn bigotry into tolerance and discrimination into equal justice in time to save the free way of life from disintegration.

It should be equally clear that no single institution such as the CIO, or a combination of like-minded organizations, however aggressively they may prosecute an antidiscrimination policy, can do more than light a holding action until the community moves through law to guarantee basic freedoms. The UAW-CIO and the CIO as a whole have been properly praised for their efforts to break down the discriminatory employment practices of the labor movement and of industry. The southern organizational drive of the CIO has brought to great areas of the South a new dimension of freedom and quickened the appetite of hundreds of thousands for deliverance from the slaveholder mentality. Nevertheless, the national trend has been regressive. The Negro has experienced the quick erosion of his wartime gains; and today again, as in the days before the promulgation of the four freedoms, he represents the unwanted tenth in a country whose politicians never tire of reminding us of America's endless frontiers of opportunity.

Of all vicious circles, that of discrimination is the most vicious. As George Bernard Shaw pointed out half a century ago, America "makes the Negro clean its boots and then proves the moral and physical inferiority of the Negro by the fact that he is a shoeblack."

Discrimination deprives Negroes of the opportunity to learn skills and then shuts them out from employment on the ground that they lack the requisite ability. Economic deprivation leads to poverty, ill-health, crime, and a general lack of fitness to play a reasonable role in society. And then the wheel of discrimination is given another turn.

The Negro is the marginal element in the labor force. When times are good and labor is scarce, a relatively large proportion is able to find jobs. When times are bad, the proportion of Negroes hired shrinks. This is reflected in the ups and downs of the proportion of applicants for social-security account numbers who are Negroes:

	Percent		Percent
1936-37.....	7.0	1944.....	10.8
1938.....	14.1	1945:	
1939.....	12.5	First quarter.....	10.9
1940.....	12.1	Second quarter.....	14.4
1941.....	11.8	Third quarter.....	10.9
1942.....	11.9	Fourth quarter.....	11.9
1943.....	14.8		

The proportion of Negro applicants rose late in the war and fell off sharply soon after the war ended.

This marginal status of the Negro is also reflected in greater irregularity of employment. Even in the "good" year 1944, far higher proportions of Negroes

than of whites earned social-security wage credits in only three or fewer quarters of the year:

Percent earning wage credits for less than 4 quarters of 1944

	Percent		Percent
All men.....	84.0	All women.....	48.5
Negro men.....	43.0	Negro women.....	35.4

Nonwhites also suffer from a serious wage differential. Earnings credits for social security purposes show that, age group for age group and sex for sex, Negro income is far lower than that of whites. Average wage credits for all ages, in 1944, reveal that whereas all men averaged \$1,001, Negro men averaged \$1,081; and that whereas all women averaged \$801, Negro women averaged only \$530.

Government, ironically enough, indirectly contributes, through benefits paid under the Social Security Act, to the perpetuation of the injustices and inequities of the private economy. The average monthly retirement payment per beneficiary as of the end of 1945 was \$24.10 for all, and only \$18.28 for nonwhite. The average monthly payment for surviving children of deceased workers was \$12.45 for all children, but only \$9.35 for nonwhite children. Here we see another generation of second-class citizens beginning life already doomed by the double standard which notes out unequal economic justices to white and colored Americans.

Discrimination and the economic consequences of discrimination constitute a dangerous drag on a nation which has yet to prove to itself and to the world that its people are capable of utilizing their tremendous productive skills and resources for the common good. The unwavering faith, if granted that equality of participation in the life of the country which is their due, could prove to be the margin of deliverance from national and world economic catastrophe.

THE OUTLOOK

President Truman, in his letter of acceptance of the Final Report of the Fair Employment Practice Committee, wrote (on June 28, 1946):

"The degree of effectiveness which the Fair Employment Practice Committee was able to attain has shown once and for all that it is possible to equalize job opportunity by governmental action, and thus eventually to eliminate the influence of prejudice in the field of employment."

Again on January 8, 1947, in transmitting to Congress the Economic Report of the President, Mr. Truman urged:

"We must end discrimination in employment or wages against certain classes of workers regardless of their individual abilities. Discrimination against certain racial and religious groups, against workers in late middle age, and against women, not only is repugnant to the principles of our democracy, but often creates artificial 'labor shortages' in the midst of labor surplus. Employers and unions both need to reexamine and revise practices resulting in discrimination. I recommend that, at this session, the Congress provide permanent Federal legislation dealing with this problem."

The UAW and CIO experience has demonstrated that labor alone cannot cope with the problem of discrimination in hiring; that while trade-union discipline and education may to a considerable extent break down prejudiced attitudes and even achieve the enviable record of sanity and solidarity shown by white and colored UAW members during the Detroit riot of 1943, only government, through the imposition of legal sanctions, can finally guarantee that the right to employment without discrimination is recognized, in the words of S. 984, as "a civil right of all the people of the United States."

The CIO does not believe that a law against discrimination in employment is the sole answer to the minority-majority problems that afflict America. Our own intimate experience throughout the past decade amply confirms the undeniable yet elementary truth that attitudes cannot be changed overnight. Yet it is criminal to hold up the need for education as an excuse for inaction in Congress or in State capitals. Passage of a law against discrimination in employment would itself be an educational act of vital importance, for in affirming the creative purpose of law, it would be a sign to both those who discriminate and to their victims that the community does not intend to remain passive in the face of discriminatory acts which are morally wrong and both economically and politically subversive.

Law is not merely a reflection of changing community habits and customs. Law influences custom and initiates change in habits. If this were not so, American would still suffer from uncompensated industrial accidents, lack of unemployment compensation, lack of social security, lack of minimum wages, absolute employer dictation of wages, hours, and working conditions, long and arduous hours of work, and any number of primitive conditions which once were complacently accepted by large sections of the community as "custom."

Neither does the CIO believe that a fair-practices law represents the chief answer to our domestic economic problems. It should not be necessary to labor the point that the Congress of Industrial Organizations does not isolate the factor of discrimination in employment from the multitude of economic problems which must be solved before the United States can control the business cycle and achieve a stable economy of full production, full employment, security, and abundance under freedom. The existence of these other grave problems, however, renders all the more pressing our need to eliminate the intolerable wastage of skills, energies, and productive powers arising from discrimination in employment.

The CIO endorses S. 984 out of the conviction that full and equal economic opportunity for the minorities of this Nation can mean a higher standard of living for all of our people. Access to employment on equal terms for all Americans means releasing the majority as well as the minority from the burden of poverty, disease, crime, and unused talents which represent the high cost of discrimination. The lifting of this burden through passage of S. 984 and through energetic community programs to make the American creed a reality can mean opening the way toward full participation in the national productive effort by the one-tenth to one-third of our people now denied this right. Higher levels of employment and wages mean greater purchasing power, greater demand for the products of our factories and farms, a greater chance to keep America at work and at peace. Fair employment is an essential component of any full employment program which seeks to reach the goal of security and abundance without sacrifice of democracy and basic freedoms.

Congress must also reckon with the fact that, above and beyond the tangible benefits that all Americans may derive from fair-employment legislation, passage of S. 984 would represent a victory of the democratic conscience, an act of extreme symbolical importance. Failure to pass S. 984 would defeat the hopes of millions of Americans. It would be a sign to them that the highest law-making body in the land, while voluble about freedom in other nations, stood mute and indifferent while the stage was being set at home for new race riots, for an eruption of domestic unrest of unparalleled proportions at the first sign of economic collapse.

Passage of S. 984, on the other hand, while it is but one step among many that must be taken, would restore the ebbing faith in democracy's promises of millions of Americans whose daily experience of rejection and exclusion has made them skeptical and bitter.

The international implications of discrimination in the United States are no less outinous than its domestic consequences. The United States is a signatory of the United Nations Charter, which affirms the determination to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for "human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

The United States cannot escape the responsibilities of world democratic leadership. The "reservoir of good will" of which Wendell Willkie spoke is still high in the hearts of people everywhere who look to America for strength and purpose. Yet it is diminishing. We cannot play our proper role in world affairs without unity and well-being at home. Other nations will regard our professions of concern for world freedoms as hypocrisy if we do not move aggressively to guarantee elementary civil rights within our own borders.

For these reasons the CIO and the UAW-CIO urge passage by Congress of S. 984. We would regard prompt and favorable action on the bill as evidence of the highest statesmanship.

Senator DONNELL. At this time I will offer for the record, subject to the approval by the committee, a certified copy of a resolution adopted by the board of directors of the Chamber of Commerce of Kansas City in regular meeting on the 10th day of June 1947, in which

the chamber of commerce condemns the bill S. 984 for certain reasons as set forth, and I ask that this resolution be made a part of the record. (The resolution referred to follows:)

RESOLUTION

The following resolution was adopted by the Board of Directors of the Chamber of Commerce of Kansas City in regular meeting on the 10th day of June 1947, upon the recommendation of its national affairs committee, after careful study and consideration of Senate bill 984, now pending before the Committee on Labor and Public Welfare of the Senate of the United States, and before the subcommittee of that committee, of which the Honorable Forrest C. Donnell is chairman:

Whereas there is now pending in the Senate of the United States the bill S. 984, entitled, "A bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry"; and

Whereas the Chamber of Commerce of Kansas City, acting by and through its duly appointed committee on national affairs, has made a careful and exhaustive study of said bill; and

Whereas said bill, on its face, clearly is coercive and punitive in form and substance and seeks to substitute governmental force and coercion for tolerance and understanding in the handling of our national racial and minority problems; and

Whereas it is the sense of the Chamber of Commerce of Kansas City that said national, racial, and minority problems, with the prejudices attendant thereon, can only be met and solved by education and intelligent toleration, rather than by governmental fiat: Now, therefore

Resolved, That the Chamber of Commerce of Kansas City does condemn the bill S. 984, for the following reasons:

(a) Because the bill seeks to substitute governmental interference for private toleration and cooperation in the settling of our racial and minority problems;

(b) Because the bill is coercive and punitive in nature and seeks to eliminate prejudice by governmental force rather than by private toleration, and in this connection the Chamber of Commerce of Kansas City makes the observation that prejudices not created by law can never be removed by law;

(c) Because the bill, if it were enacted into law, would make every employer employing over 50 persons subject to harassment and litigation and great expense upon the bare naked statement of any person that he had been discriminated against in employment because of race, religion, color, racial origin, or ancestry, thus subjecting employers to fraudulent and groundless lawsuits and interminable board hearings;

(d) Because the Chamber of Commerce of Kansas City, together with other citizens throughout the United States, has had an opportunity to observe the workings of the temporary Fair Employment Practice Commission established by Executive order during the late war, during which time it was the observation of the chamber of commerce that the rulings of said board were arbitrary and capricious, and nowhere in S. 984 is there any safeguard against arbitrary and capricious rulings of the Fair Employment Practice Commission which S. 984 seeks to set up and establish;

(e) Because the bill, with its punitive provisions, if enacted into law, would stir up ill-feeling and dissension between various groups of employers and employees throughout the country, and would accentuate and increase racial tension and prejudice to a degree that would discourage the mutual understanding and toleration necessary to the solving of our racial and minority problems.

Resolved further, That a copy of this resolution be forwarded to the Honorable Forrest C. Donnell, United States Senator from Missouri and chairman of the subcommittee on Labor and Public Welfare of the Senate of the United States, with the request that this resolution be presented to the committee.

KEARNEY WORNALL,
President,
GEORGE W. CATTS,
Executive Manager.

Senator DONNELL. Our next witness is Col. Charles Garside, chairman of the New York State Commission Against Discrimination.

Senator SMITH. For the record I want to personally welcome Colonel Garside. He is an old friend of mine, one who has had a dis-

tinguished career, and has always had my great admiration. I am delighted to see him today.

Senator IVES. I wish also to say that Colonel Garside comes from the State of New York, and I want to welcome him here and thank him for coming before us.

Senator ELLENDER. The whole committee welcomes him.

STATEMENTS OF CHARLES GARSIDE, CHAIRMAN, NEW YORK STATE COMMISSION AGAINST DISCRIMINATION, NEW YORK, N. Y., AND HENRY C. TURNER, ATTORNEY, NEW YORK, N. Y.

Senator DONNELL. I suppose it would be very unwise for the chairman not to join in this welcoming. I am wondering if you have ever lived in Missouri?

Mr. GARSIDE. No, Senator; I have not.

Senator DONNELL. Now, Colonel, will you please state your name, your residence, and something of your experience?

Mr. GARSIDE. My name is Charles Garside, 48 Fifth Avenue, New York 28, N. Y.

Senator DONNELL. Where were you born?

Mr. GARSIDE. Middletown, Conn.

Senator DONNELL. How long have you been chairman of the New York State Commission Against Discrimination?

Mr. GARSIDE. Two months.

Senator DONNELL. What is your educational background?

Mr. GARSIDE. Graduate of Princeton University and Cornell Law School.

Senator DONNELL. When did you finish at Princeton?

Mr. GARSIDE. In 1923.

Senator DONNELL. What degree did you make?

Mr. GARSIDE. B. S.

Senator DONNELL. Did you specialize in any subject in the university?

Mr. GARSIDE. History and politics.

Senator DONNELL. Did you study economics?

Mr. GARSIDE. No, sir.

Senator DONNELL. Social relations?

Mr. GARSIDE. Yes, sir.

Senator DONNELL. Sociology?

Mr. GARSIDE. Yes, sir.

Senator DONNELL. Then you went on to Cornell Law School?

Mr. GARSIDE. I had a rather curious career, by reason of the fact that I enlisted in the Marine Corps in World War I, and that interrupted my education. In consequence I took my law degree at Cornell in June 1921, and took my academic degree at Princeton in June 1923, and was immediately admitted to the New York Bar.

Senator SMITH. You had the cart before the horse.

Senator DONNELL. My attention has just been called to the fact that the former chairman of the New York State Commission Against Discrimination is also here, Mr. Henry C. Turner. Perhaps Mr. Turner and Mr. Garside would like to be in reasonably close proximity here, in case one should be asked a question that he desired the other one to assist in.

Mr. GARSIDE. I think that would be fine.

Senator DONNELL. Mr. Turner, we welcome you the same as Colonel Garside. We are very happy to have you with us. In order that our record may show something of your background, will you tell us, please, first, what your business address is?

Mr. TURNER. Brooklyn, N. Y.

Senator DONNELL. Where did you acquire your preliminary education?

Mr. TURNER. In the high schools of the city and at Princeton University and New York Law School.

Senator SMITH. I would like to note for the record that Princeton University is pretty well represented here.

Senator IVES. I would also like to note for the record that New York is also.

Senator DONNELL. When did you finish at Princeton?

Mr. TURNER. I finished in 1901.

Senator DONNELL. What was your degree?

Mr. TURNER. I did not graduate. I was in the class of 1903.

Senator DONNELL. What was your specialty?

Mr. TURNER. I had none; I was taking the regular art course.

Senator DONNELL. Did you study sociology?

Mr. TURNER. No; I did not.

Senator DONNELL. After you left Princeton what did you then do?

Mr. TURNER. I studied law in New York Law School.

Senator DONNELL. Did you graduate?

Mr. TURNER. I did, and was admitted to the bar of the State of New York in 1905. I have been practicing law since then continuously until the present time.

Senator DONNELL. You are still practicing? You practiced even when you were on the New York State Commission, did you?

Mr. TURNER. Theoretically, Senator. Actually 90 percent of my time was spent on the commission.

Senator DONNELL. Did you engage in any particular type of law practice?

Mr. TURNER. General practice.

Senator DONNELL. Have you studied labor relations?

Mr. TURNER. Yes; I have had a number of labor-relations contract negotiations.

Mr. GARSIDE. I practiced law for 25 years in New York City.

Senator DONNELL. With what firm were you associated?

Mr. GARSIDE. Well, I was a member of the firm—I began with the firm of Tilton, LaRoque, & Mitchell, and in 1927 became a member of that firm, and in January 1945, I was appointed by Mayor LaGuardia a justice of the municipal court in the city of New York. I served 1 year by appointment, and in the fall of that year I was elected to a 10-year term on the municipal court, and I resigned after serving 1 year and 4 months of my elective term to return to law practice, becoming a member of the firm of Webster & Garside, and continued as such until the date of this appointment, at which time I resigned.

Senator DONNELL. In your law practice did you have occasion to engage in any labor matters representing parties either employer or employee?

Mr. GARSIDE. Yes; I am counsel for one of the steel corporations and I have had to conduct collective-bargaining negotiations with the United Steel Workers, and have just recently settled successfully one question of contract.

Senator DONNELL. Which steel corporation?

Mr. GARSIDE. The Harrisburg Steel Corp.

Senator Ives. I want to ask Mr. Turner, you have been connected with the educational system of New York; have you not?

Mr. TURNER. I have been a member of the board of education of the city of New York and was president of the board for 2 years.

Senator DONNELL. In view of the fact that Mr. Turner was with the commission earlier than Colonel Garside, it has occurred to the committee that it would be more logical to have Mr. Turner precede in presentation Colonel Garside, so if you will so do, Mr. Turner, we will be glad to hear from you. Just proceed with your testimony in your own way.

Mr. TURNER. Gentlemen, the law came into effect in New York on the 1st of July 1945. For the first 2 months, of course, we were very largely engaged in the process of organization, in setting up the plan and scope of organization, and also in our attempt to interpret the language of the statute and the rules under which we would proceed. However, from the very outset we were met with the filing of complaints and the information which from time to time came to us, and on which finally we made sundry investigations, in line with the authority of the law.

We found at the outset, of course, a profound ignorance of the law and a very considerable opposition. We were confronted with the fact that when the bill was considered before the legislature there was strong opposition, particularly on the part of the management. One of our first functions, therefore, that we deemed important was to make our contact with industrial associations, both State-wide and industry-wide, seeking every opportunity we could to present to them the provisions of the law, in conferences, informal conferences, and gatherings, to ascertain what was the basis of their objection, and also to endeavor to interpret to them what our concept of the law was. As the result of that we found that a great deal of the opposition which had been apparent during the legislative consideration was gradually broken down, and we were—frankly, I was myself amazed, not at the opposition which developed but at the extent of the cooperation which we got from management and from the large industrial groups, such as Associated Industries of the State of New York and merchants' associations. They invited us and afforded us opportunity to speak before their members and before personnel management which they gathered together for the purpose of hearing our presentation of the law.

In the early days of the administration of law we found that we had a large number of complaints that had to be dismissed because of the lack of jurisdiction. The law went into effect on the 8th of July, and some of the acts complained of had taken place prior to that time, and many complaints were dismissed because of lack of jurisdiction.

Senator DONNELL. Might I interrupt just for a moment, in order that our record may be complete?

I observe your statement has been submitted here in writing by yourself and Colonel Garside. I think you gentlemen would be willing to have this statement incorporated in the record. That does not mean that we intend to stop you from testifying, you understand. I want you to go ahead with your testimony.

Mr. TURNER. For myself I would be very happy to have the statement placed in the record.

Senator DONNELL. It will be incorporated and made a part of the record. That does not mean in any sense that you gentlemen will shorten your testimony. This is now part of the record.

(The brief of Messrs. Garside and Turner is as follows:)

STATEMENT OF CHARLES GARSIDE AND HENRY C. TURNER IN SUPPORT OF SENATE BILL S. 884

Mr. Chairman and gentlemen of the committee, this statement is offered in support of Senate bill S. 884.

In considering the bill, it would seem proper that your honorable committee should have before it a factual statement and fair appraisal of the operation of laws against discrimination in employment already upon the statute books in other jurisdictions.

The undersigned, Charles Garside, is at present chairman of the New York State Commission Against Discrimination, and the undersigned, Henry C. Turner, was chairman of the commission from its creation as of July 1, 1945, to the date of his resignation in April 1947.

It is our purpose to present for your consideration a brief statement of the highlights of the New York law against discrimination as compared with Senate bill S. 884, the procedures incident to its enforcement, something of the history of its operation and some conclusions which may reasonably be drawn therefrom.

The New York law against discrimination, popularly known as the Ives-Quinn law became a law March 12, 1945, with an effective date as of July 1, 1945.

In its essential provisions it bears a striking similarity to Senate bill S. 884, now under your consideration. It condemns discrimination in employment because of race, creed, color, or national origin as endangering the welfare of the State, and declares the right to employment without such discrimination to be a civil right.

It excludes from its definition of "employers," social, fraternal, charitable, educational, and religious associations or corporations not operated for profit and employers of fewer than six persons, and exempts from the operation of the law persons in domestic service and persons employed by parents, spouse, or child.

The law creates a commission of five members, with powers which generally coincide with the powers proposed to be conferred upon the commission under Senate bill S. 884, section 6 (g).

The definitions of unfair employment practices include in almost equivalent terms the definitions found in section 6 (a) subdivision (1), (b) and (c) of Senate bill S. 884, and in addition, a provision forbidding an employer or employment agency to print or circulate any statement, or to use in an employment application form, or to make any inquiry, which embraces directly or indirectly any specification, limitation, or discrimination as to race, color, creed, or national origin. It also declares it an unlawful practice for any person to aid, abet, incite, or coerce the doing of any of the acts forbidden under the statute.

The procedures set up under the New York State law are generally similar to those in Senate bill S. 884. The complaint must be verified by the aggrieved person or his attorney at law. When received, the complaint is referred to a commissioner, who is charged with the duty of investigation, in which he may have the assistance of the commission staff. If as a result of the investigation he finds probable cause to credit the allegations of the complaint, the investigating commissioner is charged with the duty of endeavoring to eliminate the unlawful practice by conference, conciliation, and persuasion. What may transpire during such endeavors may not be disclosed. In case of failure to eliminate the unlawful practice, the investigating commissioner is required to notice the matter for hearing before three members of the commission (other than the investigating commissioner). Testimony is taken under oath and on the complete record the commission is required to state its findings and to make an order, either dismiss-

ling the complaint or requiring the respondent to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will effectuate the purposes of the statute.

The New York law contains provisions similar to those contained in section 8 of Senate bill S. 984 in aid of enforcement of the commission's order or for the review of the commission's action by a person claiming to be aggrieved by its order.

The foregoing summary of the New York law against discrimination indicates, therefore, the similarity of its essential provisions to the provisions contained in Senate bill S. 984.

The New York law against discrimination became effective July 1, 1945, and the commission appointed, pursuant to its provisions, began their functions on that day. The first weeks were necessarily largely spent in organization.

Since its inception to the 1st of June 1947, 689 verified complaints have been filed. Of these, 534 files have been closed, which may be broken down as follows:

Seventy-seven complaints were dismissed as not coming within the jurisdiction of the commission under the law. Most of these represented acts of discrimination which took place prior to the effective date of the statute; others either did not relate to employment or were directed against employers exempted under the statute; 17 complaints were withdrawn with the consent of the commission; 151 complaints were closed by the Investigating Commissioner, after investigation, as being without merit.

In 154 cases the investigation disclosed that while the particular complainant had no cause for grievance, yet nevertheless a discriminatory pattern of employment existed on the part of the respondent, and in each of these cases, while no enforcement powers existed in the commission, by process of conference and conciliation, the respondent was persuaded to abandon his discriminatory practice in favor of a practice which would insure employment opportunities based on the qualifications of the applicant without limitation as to race, color, creed, or national origin.

In 135 cases the complaints were found to be meritorious and in every one of these cases, through the process of conference and conciliation, the unlawful employment practice was eliminated and a satisfactory adjustment of the grievance of the complainant was worked out.

Not in a single instance has it been necessary to hold a formal hearing, or to issue a cease-and-desist order.

In addition to the formal complaints filed, the commission has had occasion to investigate some 217 cases. These investigations, although they did not originate with verified complaints, arose as the result of studies made by the commission of employment practices, based in many instances on information received from creditable and reliable sources. In such cases the commission was without power to employ sanctions. Of these investigations, 166 have been closed, which may be broken down as follows:

In 69 cases no unlawful employment practice was established;

In 97 cases it was disclosed that unlawful employment practices were engaged in and in every one of these 97 cases, through the process of conference and persuasion, the unlawful practices were eliminated.

Of the verified complaints filed, 161 were based upon the alleged discrimination because of creed; 531 because of color; 74 because of national origin.

Of the investigations initiated by the commission, 54 were based upon alleged discrimination because of creed, 121 because of color, and 38 because of national origin.

The respondents named in the verified complaints were employers 559, employment agencies 32, labor organizations 5, miscellaneous or not covered by law, 48.

By way of illustration of the activities of the commission, the following examples are offered. It sometimes happens that the commission is without jurisdiction to act in the case of an employer exempted under the provisions of the law. While in such case the complaint must be dismissed for lack of jurisdiction, the opportunity frequently is presented for missionary work. So in the case of one of the large hospitals in one of the principal cities of the State, where a colored, trained nurse was not permitted to serve as a special nurse for a paying patient, conference with the hospital authorities resulted in the offer to her of a permanent place upon the regular hospital nursing staff.

In another case, wherein investigation developed that a telephone operator had been discharged for duu cause, it developed that a positive discriminatory pattern of employment prevailed. While the particular complaint therefore was dismissed, the employer was persuaded to abandon his discriminatory practice and a recent check-up demonstrated that members of minority groups previously barred are now employed.

In another instance, a complaint was filed by a ship's officer. During the course of the investigation, the officer was reemployed. In the course of investigation, however, it appeared that a definite discriminatory policy was in vogue with respect to office employees numbering some 700. As the result of the conciliation method, this policy of discrimination has now been abandoned and a check-up disclosed that a substantial number of those previously barred by such practice are now employed.

In addition to the investigation of complaints, the commission under its general powers has been largely engaged in educational activities, both formal and informal. These include close cooperation with the State department of education in a field of formal education and through the medium of public addresses and conference with employer and labor groups. In large degree such conferences have been very effective. Particularly has this been so where employers represented are grouped in a particular industry. The results are shown in the increasing number, particularly of Negroes, employed by the department stores and utilities in white collar capacities and definite progress has been made with many banks, insurance companies, and business offices.

Meetings with labor organizations operating in New York disclosed that some operated under constitutions and bylaws which violated the State law, although many of the unions had no such discriminatory provisions. Of the unions having rules and constitutional provisions contrary to the State law against discrimination, many agreed at the conclusion of these conferences to bring their rules into conformity with the law against discrimination either by eliminating the constitutional clauses or by making such clauses ineffective in New York State. Generally, labor organizations have shown a desire to conform to the provisions of the law.

Moreover, the conciliation processes have been particularly productive of results. Persuasion, which results in cooperation on the part of the employer, inures to the benefit not merely of "John Doe" but of many "John Does." From the experiences of the New York Commission Against Discrimination, certain reasonable conclusions can be drawn.

It was urged during debate on the bill that the adoption of such a law would drive industry from the State, but the commissioner of commerce of the State of New York indicates that this is not the case. In no instance has he a record of any industry leaving the State because of the enactment of the law.

It was urged that the employment of members of certain minority groups would cause labor difficulties and strikes, or withdrawals of other employees. There has not come to the attention of the commission a single instance in which such result has attended the introduction of members of these minority groups. In a few cases, which could be numbered on one's fingers, individuals have walked out but in no instance which has come to the attention of the commission has there been a mass exodus or any mass action.

It was urged that in retail establishments the employment of Negroes as sales girls or salesmen would affect sales. In New York City several of the largest department stores employ Negro sales girls and the reports universally are that there has been no unfavorable response from the buying public.

The experiences of the commission, therefore, lead to the conclusion that the bogies and phantoms urged in opposition to the passage of the law have vanished in the light of experience.

Another reasonable conclusion to be drawn from the experience of the commission is that the law is effective in reducing discrimination in employment because of race, creed, color, or national origin. Not only has there been an actual demonstration of the opening of new fields of opportunity, particularly in white collar employment, but from time to time the commission has received the assurance, from organizations particularly interested in the placement of members of minority groups that there is less resistance to employment and that this is especially evident in high grades of employment.

Moreover, in New York State, we rarely find today an application for employment which contains questions considered by the commission, directly or indirectly, to disclose race, color, creed, or national origin, or advertisements for help wanted in newspapers which directly or indirectly make such limitations.

There is a marked contrast in this regard when New York State papers are compared with those of other States without similar limitation.

An equally reasonable conclusion is that the law and its enforcement is gaining the confidence not only of management but of minority and welfare groups as well.

The commission has had a surprising degree of cooperation from trade associations and chambers of commerce, who, at the outset, were bitterly opposed to the passage of the bill.

From all of the foregoing, the conclusion is irresistible that the law works toward the accomplishment of its purpose. Those charged with its enforcement have no illusions that discrimination has been eliminated in New York, or that such a desired result can be obtained except as the result of a long-time program. The trend, however, is definite and it is heartening to know that no effort has been made to repeal the law, or to limit the activities of its enforcement. Its strength lies in the recognition that bias and prejudices exist, which must be overcome through the educational processes which the law affords, both in the procedures of conference and conciliation, and in the educational machinery which is made available to the commission, not only as a result of its own studies and publications but through the medium of its local or regional councils.

On the other hand, the definition of unlawful employment practices, and the machinery which the law sets up for the enforcement of its prohibitions, are an effective means for compelling attention to the law and the philosophy and policy which it enunciates.

Finally, the law is an effective instrument in the preservation of the social order. To deny to any group of citizens the opportunity to employ to the full their productive skills and thus to confine them in an economic ghetto must of necessity create resentments which provide a fruitful field, in which proponents of alien philosophies may work. Communist groups may be found out in front in their protestation of discriminatory practices. The American Bowling Congress refused to permit Negro participants in their tournament in Buffalo last year, and Communists picketed the tournament. A utility company was charged with discrimination and again Communists held meetings and picketed the utility company office.

This country is sending hundreds of millions of dollars to combat the forces of communism abroad. In this country their policy is to bore from within. A law against discrimination in employment, fairly administered, would tend to destroy one of their fields of operation.

Mr. TURNER. This statement, I might say, concisely sets forth pretty much the argument that I would have to make. I would like to double up in it in this way, however, that, as you gentlemen are aware, Senate bill 984 is rather largely molded after and expresses the philosophy set forth in the Ives-Quinn law, the New York State law against discrimination. So closely does it parallel that with the exception, possibly, of one or two of the definitions with respect to unlawful practices, it might almost be said to duplicate it in principle, therefore I do think that our experience in New York is highly relevant in the consideration of the bill before your committee.

We have found that in that bill there are two important factors. First is unquestionably the educational factor. I must agree with everything that Mr. Reuther has said in that respect. The attitudes of mind which are the basis of discrimination, out of which discrimination flows, can only be overcome through the processes of education or morals or ethics, but on the other hand, the second feature, the feature of the sanction or the power of the State coming through the commission to enforce the orders of the commission is, in my opinion, of the utmost importance. I liken it, because of my experience in the educational system, to the truant officer. We require under our law that children shall go to school. The educational features of the law, which are merely a statement of policy or of principle, are not effective if not backed up by the sanction of law.

Senator DONNELL. Gentlemen, that bell marks the fact that it is 15 minutes until the Senate will be in session. I have requested that arrangements be made, or that an attempt be made with the Senate, which I have no doubt will be successful, to provide that this committee may continue in session, notwithstanding that the Senate will be in session. I just want you to understand the reason why at 12 noon sharp this committee will be in recess for, I trust, only a few minutes, pending the action by the Senate on our request. So you will understand there is no rudeness in interrupting you at 12 o'clock sharp, and you may continue right along with your testimony.

Mr. TURNER. The importance of the sanctions or of the powers of enforcement, to my mind, are quite analogous to the truancy laws which are effective in our educational system. It has compelled people to pay attention to the fact of the existence of the law and the philosophy which it expresses, and unquestionably, in my opinion, has rendered the processes of conference and conciliation, which have been rather effectively used in the State of New York—it has made them possible.

The record of the New York State Commission—and I think it is paralleled in other States where similar laws are in effect—is that, notwithstanding the number of complaints which have been filed, in which the fact of discrimination has been developed, it has not yet been necessary, in nearly 2 years of operation, to issue a single cease-and-desist order. Nor, may I say, has it been necessary at any time even to hold the formal public hearings which would flow from a failure of the conciliation process.

Senator ELLENDER. How many complaints have been filed?

Mr. TURNER. We have had actually, up to the 1st of June—and this, of course, was after my time—June of this year—683 verified complaints filed.

Senator ELLENDER. Are those single complaints involving one person, or groups of persons?

Mr. TURNER. Those are complaints which involve individuals, and in some instances groups of individuals.

Senator ELLENDER. How many persons would you say were involved in the six-hundred-odd complaints?

Mr. TURNER. There might possibly be—this would have to be an estimate, Senator, but I would judge that that might run up pretty close to 750, maybe 800, persons involved. That is an estimate.

Senator ELLENDER. Were those complaints that came to you, on which you had hearings?

Mr. TURNER. Complaints which were referred and went through the process of investigation.

Senator ELLENDER. How many were filed that you dismissed because of noncompliance with the law?

Mr. TURNER. Some 77 of those cases were dismissed because of lack of jurisdiction. The greater portion of them were referred within a couple of months after the law went into effect.

Senator ELLENDER. That was because of the occurrence of the charge, or the discrimination prior to the enactment of the law?

Mr. TURNER. In most instances; not in all. In some cases complaints were filed that did not come under the law at all. Some of them might involve the Bill of Rights, which does not come under the law of discrimination.

Senator ELLENDER. Of those six-hundred-and-some-odd cases, what was the chief reason assigned for the discrimination?

Mr. TURNER. The reason, of course, was discrimination by reason of race, creed, color, or national origin. The break-down on that, if that is what you are asking about, was in the matter of creed, 161; on color, 530.

Senator ELLENDER. What do these cases involve, mostly?

Mr. TURNER. On creed, in most instances it was the job. I can give that to you, I think, with accuracy. Well, no; it is not here, but that is the predominant thing.

Senator ELLENDER. What was the chief reason assigned by the employer for failure to hire?

Mr. TURNER. In the case of religion, it was denial of the fact that there was discrimination. I don't think that in a single instance where religion was involved, we have had the defense that the person would not hire a Jew or would not hire a Catholic, would not hire a Protestant. Those were alleged, but—

Senator ELLENDER. What do you mean by the "defendant"?

Mr. TURNER. By that complainant. But the defense was that there was no discrimination.

Senator DONNELL. No confession and avoidance of the charge? There was denial?

Mr. TURNER. It was flat denial.

Senator ELLENDER. As to those 161 cases, did the employers finally employ them?

Mr. TURNER. I can give you the break-down on that. Out of those 161 there were actually 128 closed files. There are some still pending. Of the 128 closed files, 43-75 actually made the employment or a satisfactory adjustment was made. In some instances during the process of conciliation the complainant found a new job and did not accept the job which he was offered.

Senator SMITH. I want to clear up what you mean by "43-75."

Mr. TURNER. I was adding my two sets of figures here, Senator. There were 75 cases in all in which the fact of discrimination was established and a satisfactory conciliation worked out. In all of those cases, however, it did not involve reemployment, because in a number of them the complainant did not accept the employment after conciliation was worked out.

Senator ELLENDER. How many placements did the commission actually make out of these 75?

Mr. TURNER. We never make placements.

Senator ELLENDER. What I mean is, you say you have not had to bring anyone into court yet, but by persuasion, conciliation, and mediation you made them see the light. How many out of the 75 did you make see the light?

Mr. TURNER. All of them; all of these respondents saw the light and agreed to take on the employee—the 75 cases.

Senator ELLENDER. I thought that out of those 75 cases some had found other employment.

Mr. TURNER. That is true; and I haven't the break-down on that.

Senator ELLENDER. You say there were 161 altogether. That leaves 86. What became of those?

Mr. TURNER. Thirty-three are still in the active files.

Senator ELLENDER. Why?

Mr. TURNER. The investigations or conciliation processes have not yet been concluded.

Senator ELLENDER. They are of recent origin?

Mr. TURNER. They are.

Senator ELLENDER. That accounts for 33. That leaves 53. What about the 53?

Mr. TURNER. Thirty-one were dismissed on the merits. Twenty-one were dismissed for lack of jurisdiction.

Senator ELLENDER. What do you mean by merit?

Mr. TURNER. No discrimination was found after investigation. The respondent was relieved of all charge of discrimination after investigation by the commission. The largest category is colored.

Five hundred and thirty-one complaints were filed, and this represents a closed file of 313. The other cases are still open and in process of investigation or conciliation.

Senator ELLENDER. When you say "colored" you mean the Negro race or what?

Mr. TURNER. Practically all of them Negro. We have a few Asiatics, and those are practically the only ones that come in, and they are very small in New York.

Senator ELLENDER. Of the 313 cases that were closed, how many placements were made? How many were employed by the employer?

Mr. TURNER. I cannot give you the exact number of reemployment, but satisfactory conciliations were worked out in 168 cases.

Senator ELLENDER. When you say "satisfactory" you mean by that that the complainants were satisfied?

Mr. TURNER. I mean by that that the conciliation worked out a situation which, in the opinion of the commission, was fair.

Senator ELLENDER. Did that result in the employment of the complainants by the respondent?

Mr. TURNER. In practically all of those cases. Again you will find some cases in which there were other employees—complainants—who did not accept employment.

Senator ELLENDER. As to those cases, did the commission find that there was discrimination by the employer because of color?

Mr. TURNER. Yes, sir.

Senator ELLENDER. What were some of the common reasons or grounds given by the employer for this discrimination?

Mr. TURNER. I think Mr. Reuther fairly expressed it: the fear on the part of the employer that he would not get cooperation from his employees.

Senator DONNELL. Right at that point, Mr. Reuther did not put it just that way, as I understood him. He said that was the excuse on the part of the employer. He did not concede the validity of that excuse.

Mr. TURNER. I don't concede the validity of the excuse. I say that that was the statement made by the employer.

Senator DONNELL. That was his statement?

Mr. TURNER. The fear that they would not be accepted by the other employees, and would cause internal dissension in the plant.

Senator DONNELL. That is what he said was his fear?

Mr. TURNER. Yes.

Senator DONNELL. You are not passing upon whether or not he actually believed that?

Mr. TURNER. No; I cannot determine that. I cannot determine his thought; but I will say this: That in the history of the commission up to the present time we have no knowledge in the State of New York of a single instance where there was any mass secession or cessation of work because of the introduction of Negroes into the plant. In a few instances there have been one or two that have withdrawn. There were threats, but we have no knowledge of a single instance where a plant was closed in New York, or where there was any considerable withdrawal of employees.

Senator ELLENDER. Mr. Turner, you have had, of course, very few cases in the period of 2 years. Might that not be partly due to the fact that we have had such tremendous employment in the country?

Mr. TURNER. I don't think the attitude of the employee would be affected by the mass employment at all. It might affect the attitude of the employer but not that of the employee.

Senator ELLENDER. Of these 343 cases, what size establishment was that in which discrimination was practiced?

Mr. TURNER. They run the entire gamut. Our law defines an employer as one who employs six or more, and they will run all the way from the small plant to very large plants—very large employment. There is no definite size.

Senator ELLENDER. Did you find in any of the cases you investigated out of these, say, 313, where the employer had already employed or had under this employ colored people?

Mr. TURNER. Yes.

Senator ELLENDER. And even though they had colored people employed, they still refused to employ any of these 313?

Mr. TURNER. You are referring to cases wherein we found discrimination?

Senator ELLENDER. Yes.

Mr. TURNER. No, sir; we did not find that in cases—

Senator ELLENDER. I am talking about the 313 cases. Did you find in those 313 cases that the employer had not previously employed colored people?

Mr. TURNER. That is true. In those cases there was a definite pattern of discrimination.

Senator ELLENDER. And you say that the number of employees ranged from six on up?

Mr. TURNER. From six up.

Senator ELLENDER. Of the remaining cases, the two-hundred-and-some-odd cases that have not been closed, what is their status?

Mr. TURNER. Those are in the status either of investigation or in process of conciliation. I want to say, if I may, at this time, that with us the process of competent conciliation is of paramount importance, and we have proceeded on the theory that patience and persistence is of vital importance. In other words, we conceive this process of conference and conciliation to be an extension of the educational process, and that the mere passing on an individual complaint and the restoration to service, to employment, of the individual complainant means nothing unless we can get a conversion on the part of the employer, and a change in the pattern; therefore we have deemed it more important to effect a conciliation whereby an employment pattern will be changed and a number of John Does employed, rather

than merely to make a finding in a specific instance. And that has been the result in many of these cases.

Senator DONNELL. The committee is in recess subject to the call of the Chair.

(Whereupon, at 12 o'clock noon, a recess was taken until 12:05 p. m. this day.)

Senator DONNELL. The committee will be in session.

Senator ELLENDER. Mr. Turner, I want to make this observation: That I am really surprised at the small number of cases that came before your board in the first 2 years of the operation of the law. Are you familiar with the hearings that led to the enactment of the so-called Ives-Quinn bill?

Mr. TURNER. I attended only one. For my own information I have read the report of the commission.

Senator ELLENDER. Did you as administrator of that law expect more cases than were actually filed?

Mr. TURNER. Frankly, we expected more cases.

Senator ELLENDER. Which, of course, leads me to believe that there is more talk about the matter than truth; that is, there are more allegations about it than truth on this question of discrimination. Would you agree with that?

Mr. TURNER. No; I would not agree with that, because it would be, I think, very foolish on our part to assume that every case of discrimination comes before the commission, or that discrimination has in any way been eliminated in the State of New York. I will say that I think there were other factors that entered into that. First was the passage of the law. I think the very fact of the passage of the law tended in many instances to a compliance with the law. We had definitely taken the position—and I think properly so—that we had no jurisdiction over cases of discrimination which arose prior to the effective date of the statute, and we gave considerable publicity to that fact. In the period immediately following the enactment of the law, as I have pointed out, we made a very strenuous endeavor to make contact with the large industrial groups in order to explain the law, and we obtained from them very considerable cooperation. Associated Industries in New York, for example, circularized all of its membership throughout the State, setting forth the principles of the law, some of their own interpretations of the provisions, and some on which we had made rulings, so that there was given at a very early time knowledge, to industry throughout the State, of the law and of its terms. We have no means of knowing—it is impossible to make a satisfactory census, and we have had neither the money nor the facilities to do it—as to those concerns or managements who at that time changed over from a discriminatory practice to a voluntary nondiscriminatory practice, but we do know that from time to time we come across business concerns whose change-over had been effected.

I think, too, that at the particular time in 1945 there were not the great lay-offs, and in many instances where there had been lay-offs the employees did not seek reemployment immediately, but expected that after industry had changed over to a peacetime basis there would be opportunities of reemployment, and I think the history of our own organization is reflected in that of other similar commissions in other States, and also in the record of the FEPC, wherein there was a suppo-

sition that, following VJ-day, there would be a tremendous increase in the number of complaints filed, and which were not reflected in the facts.

Senator ELLENDER. Now, Mr. Turner, you have no segregation laws in New York, as I understand it?

Mr. TURNER. We have none.

Senator ELLENDER. And that practice has not been—your commission has not been confronted with that question?

Mr. TURNER. I don't think we have had a single case where the charge of discrimination was based on segregation. I am speaking from memory, but I don't recall it.

Senator DONNELL. Mr. Turner, would you indulge the chairman of the committee for just a moment? This is aside from your testimony.

I would like to state in the record that in the course of Mr. Reuther's testimony I made certain observations with respect to the provisions of this bill as to force, and I want to say that in the course of what I said I indicated my concurrence with the view of Mr. Reuther—that force is necessary. On that I would like to revise my statement and reserve my ultimate judgment on that. I was giving my offhand thought as the testimony proceeded. As a matter of fact, what I intended primarily to emphasize, and what I think I did primarily emphasize, was the contents of this bill—to make it perfectly clear that this bill does, in fact, contain provisions for force to be applied in every portion of the United States, in the event that those earlier processes of conciliation, and so forth, shall not succeed.

The occasion for my making this insertion at this point in the record is that I do not want anything said by me as to my conclusion as to the necessity for a provision for enforcing the law to stand here as an irrevocable opinion on my part. I would like to reserve my thought on that, notwithstanding my observation made this morning.

Thank you very much, Mr. Turner, for your forbearance while I am making this statement.

Proceed, Senator.

Senator ELLENDER. I presume you are familiar with and have heard a lot about the segregation laws of the South?

Mr. TURNER. I have heard of them.

Senator ELLENDER. Have you lived in the South?

Mr. TURNER. I have not.

Senator ELLENDER. You are not familiar, then, with the conditions there?

Mr. TURNER. I am not familiar with the conditions except from what I have read.

Senator ELLENDER. I don't suppose you consider yourself qualified to determine, then, whether or not you believe the South should practice segregation?

Mr. TURNER. I would hesitate to express an opinion on it except in general.

I also want to take the position, so far as I myself am concerned, that I do not believe that in a democracy, where people must live together, there should be perpetuated a system whereby one group is confined in a ghetto, let us say.

Senator ELLENDER. Nor do I. Would you venture to say, however, what would have happened in the South, where in many States the

ratio of colored to whites was, as in Mississippi, 52 percent colored, 48 percent white, Louisiana 40-60, and the other States present similar proportions? Suppose there had not been any segregation laws in those States, and the children, white and black, had been permitted to associate together, go to the same school, go to the same colleges, join the same fraternities and go to the same dances, go to the same restaurants—in other words, where they would engage socially to the same extent as whites do there now—do you believe that that might have led to intermarriage?

Mr. TURNER. I wouldn't know, Senator. I am not familiar enough with conditions to express an opinion. We have a large Negro population in New York City. We have a large one in Brooklyn, in my own area, and I have not seen any particular tendency in that direction.

Senator ELLENDER. Of course, you have very few white people living in Harlem, do you not, contrasted with the colored population?

Mr. TURNER. I don't live in Harlem. I live in Brooklyn. We have a very large colored population in Brooklyn.

Senator ELLENDER. I am speaking of Harlem. I didn't say you were living there, but you do know that the population in Harlem is a predominantly colored one?

Mr. TURNER. Oh, yes.

Senator ELLENDER. And you are familiar, of course, with the great difficulty that the police in New York have in keeping peace in Harlem, are you not?

Mr. TURNER. No; I don't think that is quite the fact, Senator. As a member of the mayor's committee on unity in the city of New York, before I became a member of the committee, and while it was true that there was one major disorder about 3 years ago—I think it was possibly 4—in the summertime, I don't think it was due to an interracial animosity. That particular case rose out of a rumor. That was the outstanding thing which made the newspapers.

Senator ELLENDER. That is the only case to your knowledge?

Mr. TURNER. The only major one.

Senator ELLENDER. I asked you about difficulties reported in Harlem as between the whites and colored.

Now, is it not true that the reason why there is not much difficulty there between the races is because Harlem is composed mostly of colored people?

Mr. TURNER. I cannot answer that question with entire authority, Senator.

I will say along the principal business streets of Harlem there are many white business concerns.

Senator ELLENDER. I understand that, but a good many colored do not live in Harlem. They live somewhere else in New York?

Mr. TURNER. I do not know that.

Senator ELLENDER. Is it not also true within Harlem are quite a few restaurants operated by white people in which no colored people are permitted to eat?

Mr. TURNER. That I do not know, sir. They have not come under our jurisdiction. I do not know it to be a fact.

Senator ELLENDER. You say in Brooklyn you have the situation of many colored people living there?

Mr. TURNER. Yes, sir.

Senator ELLENDER. Do they live all over Brooklyn or are they in a measure confined to a certain area in Brooklyn?

Mr. TURNER. They are fairly well scattered, but there is what is known as the Bedford-Stuyvesant region, which is heavily populated by colored.

Senator ELLENDER. What proportion are the colored to white in that Bedford-Stuyvesant region?

Mr. TURNER. I could not answer, Senator. I could not give it. I would say in that particular area it is at least 50-50. I live in that area myself.

Senator ELLENDER. Fifty-fifty. Is there much trouble as between the whites and colored in that area?

Mr. TURNER. No; I am not aware of any except in those cases wherein individuals, and they are not entirely limited to colored, individual breaches of the peace.

Senator ELLENDER. Although you do not have segregation laws in the State of New York, is it true that in Brooklyn, as well as in New York City and other places, there are restaurants where colored may not enter?

Mr. TURNER. I do not know of any.

Senator ELLENDER. You do not know of any?

Mr. TURNER. No, sir.

Senator ELLENDER. Have you ever seen them——

Mr. TURNER. Put out?

Senator ELLENDER. Yes.

Mr. TURNER. No; I have never seen anybody put out.

Senator ELLENDER. Have you ever seen them eating together?

Mr. TURNER. Yes, sir.

Senator ELLENDER. All over the city?

Mr. TURNER. I should say so.

Senator ELLENDER. Have you seen any place where they are not permitted?

Mr. TURNER. No, sir.

Senator IVES. The same is true of upstate New York.

Mr. TURNER. I do not know.

Senator DONNELL. You say 50-50 of the Bedford-Stuyvesant area. You say at least 50 percent are colored?

Mr. TURNER. Yes, sir.

Senator ELLENDER. That's all.

Mr. TURNER. I want again to emphasize the importance of the process of conference and conciliation. Senator Smith has referred to the fact that—or has suggested that perhaps the processes of education, including the process of conciliation, might be effectively carried out without an enforcement provision in the law.

Senator DONNELL. Pardon me just a moment. I don't think that is quite an accurate statement of Senator Smith's position.

Senator SMITH. No; my suggestion was simply this: I favor the passage of this law as it is, to be applied Nation-wide. The only question I have raised is that in those areas where popular feeling is so strong that they can handle this thing by mediation it might prevent the arm of the law coming in to enforce it. I favor firm legislative action for such a period as to determine that section 8, which is the only legal sanction provision here, can be successfully applied, and I am wondering whether it would be wise to let them try that process

as we are developing the whole program in the United States; what I want to see is the whole United States take this over and carry out the spirit of these principles enunciated here, but if we are going to stir up vicious antagonism and local trouble because the law comes into being, as to those areas if you can demonstrate that you take care of these discrimination cases by the processes of education and conciliation, wouldn't it be wise to tell them to do it? That is the only point I make. I want to make it universal. I would not take it out of the bill.

Senator DONNELL. May I ask Senator Smith—I want to be perfectly clear on his suggestion; I think I understand it—is this your suggestion: that the bill be enacted as it is, but possibly not go into effect for 6 months, within which time the legislature of any State might, by affirmative action, remove that State from the operation of the compulsory provisions incorporated, which are now incorporated in section 8 of the act?

Senator SMITH. That is the general thought. I may have to look over section 8 to see if there is anything that we ought to retain, and maybe something in section 7 that has the same effect. That is a matter of detail. My point is to consider eliminating in those areas where they prefer to make experiments without legal sanctions—eliminate the legal-sanction features. I want your opinion from your experience; I understand you have never had to use the legal sanction?

Mr. TURNER. We never have had to.

Senator DONNELL. But your suggestion does not, Senator Smith, as I understand it, involve the elimination in any jurisdiction of the country of the provisions of section 14.

Senator SMITH. I am glad the Senator called attention to that, because section 14 is simply the provision that provides penalties for those who forcibly resist what the Commission might be doing. Let me read it in the record, so nobody will have any doubt as to my position. I would still leave this provision in the law:

Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this act, or because of such performance, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 1 year, or by both.

Now let me read that section for the record.

I would leave this provision in the law:

Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this act, or because of such performance, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 1 year, or both.

Senator DONNELL. You would not allow a State to exercise the option?

Senator SMITH. No. I am entirely of the view it is a Nation-wide Commission. If the full section 8 ought not to require to give an opportunity to work that problem out by education and social progress—

Senator DONNELL. But not law?

Senator SMITH. Section 14 ought to be in because I want to see the Commission operate. I think they should operate and hold hearings and hear grievances and should determine and show in their annual reports just what the situation is in the different States and accumu-

late data as to whether we are having widespread discrimination in the United States.

I am just raising one question; namely, public opinion. As I mentioned before today the experience we had with the enforcement of the prohibition act was because of public opinion. If public opinion does not want the arm of the law, would it not be wiser as we evaluate this whole picture to have it done that way?

I value your judgment, Mr. Turner, very highly because you must know from your experience to what extent it is necessary to have legal sanctions behind you in what you are trying to do.

Mr. TURNER. In our opinion the conciliation affords the method for getting management and labor groups into conference for the purpose of instituting these conciliation processes and has been greatly aided—

Senator SMITH. You still have the subpoena power?

Mr. TURNER. We still have the subpoena power, but you have no impulse to accept the conciliation efforts unless there was in the background somewhere the possibility that if you will not sit down and debate this issue thoroughly, sanctions may be imposed, or the authority of the courts may be called upon to aid in the establishment of your order.

Senator SMITH. Is that based on your experience, that if sanctions had not been there you would not have received that cooperation?

Mr. TURNER. I think we have had enough experience to realize that if there was that consciousness always in the mind of the employer or respondent in the case, that there was always the possibility of that alternative. I do not mean to say the conference necessarily proceeded under duress. I do not mean to imply that, but there was always the possibility of that alternative which rendered him more willing to sit down and realize he had to make certain concessions.

Senator SMITH. What I am disturbed about is the possibility of revenue people coming into a State where some trouble has arisen, and because chiefly they are outsiders—it is not local State courts, it is Federal courts, or a Federal commission—coming in and endeavoring to enforce a law that the people themselves do not want, they may be resented. The local legislature represents public opinion. Whether you want to attempt to force public opinion by law before you educate public opinion, that is the gist of my feeling.

Mr. TURNER. Senator, may I suggest there is one section of this law that has not been covered, that has not been referred to in any discussion that I have heard, and that is subsection 7 of the section of general powers.

Senator DONNELL. Page 9 of the act.

Mr. TURNER. Subdivision 7 (g), section 6.

May I correct a misstatement?

Senator DONNELL. Yes, you may.

Mr. TURNER. I would like to correct a statement I made as to the number of active cases not cleared. That, I think, is 118 instead of 218, which I said were in the investigation and conciliation process.

Senator DONNELL. You gave 531 as the total number.

Mr. TURNER. I think I have got to make it 481. The total number of complaints filed under the head of colored discriminations is 481, and the number in the open files not yet closed is 118. I would like to correct that.

Senator DONNELL. One hundred and eighteen. I call your attention to the fact that the mimeographed statement of yourself and Colonel Garside is 531.

Mr. TURNER. It was taken from this statistical sheet and the same error was carried into our records, and it should be corrected.

Senator DONNELL. Thank you.

You were about to discuss subsection 7, subdivision 7 of subsection (g), which subdivision appears at page 8 and following of the bill.

Mr. TURNER. This provides for the creation and local and State regional conciliation councils.

In New York City these have been set up in principal cities. They serve the purpose which are set forth in the section, but incidentally serve a much greater purpose than is indicated there, because they operate and interpret to the community the law and knowledge in its provisions, and also interpret to the commission, and this is important, a knowledge of the local conditions in the area in which they are located.

In the selection of personnel in New York we have adopted a formula in the setting up of those councils that they shall consist of management, labor, a proper representative of education, and in addition, of course, representatives of minority groups who are prevalent in the area, and in addition, persons whose word and authority and influence is great in the community. They have been extremely helpful and our experience has been that we have been able to get to serve on those commissions representatives of outstanding industries.

In the city of Rochester, for example, there are represented there, and in the organization meetings for the formation of that council, the largest industries of the State were present and participated.

Senator ELLENDER. Are you now speaking of the organization of this commission?

Mr. TURNER. I am referring to the creation of these local councils, which are authorized under subdivision 7.

Senator ELLENDER. Are they paid councils.

Mr. TURNER. No, sir: they are voluntary.

Senator ELLENDER. At this point would be you be able to state how much its costs to operate this law in New York?

Mr. TURNER. Our budget for the current year is approximately \$400,000.

Senator ELLENDER. It is \$400,000?

Mr. TURNER. Yes. These councils have been of tremendous value.

Senator DONNELL. Have you made any estimate as to the cost of enforcement, I do not mean strictly speaking the enforcement provision under section 8, I am talking about the entire administration of S. 984 all over the United States.

Mr. TURNER. I have not the slightest idea.

Mr. GARSIDE. I think we might state for the record we have always lived well within our budget and we will not spend more than 75 per cent of our budget this year.

Senator ELLENDER. There are so few cases I wonder why you do not cut it in half?

Mr. TURNER. I would like to answer that, Senator, and I think the members of the New York Commission will agree, that the sole benefit of the law, or in fact the greatest benefit of the law has been in the investigations as to specific complaints that have been filed.

The greatest effect of the law and of its administration has been, I think, in creating throughout the State an understanding of the law and a voluntary compliance.

I have referred to lots of organizations as trade associations, industrial associations and chambers of commerce, and in addition to that, we have had many conferences with employer groups, such as the Retail Dry Goods Association, the New York City Banking Association, newspaper publishers, and groups of that kind where we embraced an entire industry and there we have been able, by the confidence they have had, to cooperate together. They can get a cooperative action and no person will be deemed to be taking advantage of the other. We get a cooperation which might otherwise not be possible, but it has been very effective and we have seen changeovers in instances wherein we have never had complaints filed.

Take our largest department stores in New York City, where there was great hesitancy in most of them in placing colored girls behind the sales counters. Most of the large department stores in New York now have colored girls at their counters and a check-up of reports from those stores do not indicate that it has made any difference in their employee problems or with the buying public.

In the insurance field we have had cooperation.

In many of the banks in New York City, the larger banks in New York City, there, too, we have seen instances of the beginning of the employment of white-collar workers, colored white-collar workers, in some instances in cages, not many as tellers because of the lack of opportunity for training and experience, but in the bookkeeping department, the administrative department, in the press department or real estate property management department we have seen those things in operation and we know they work. Those are cases in which complaints have not been filed, but have been the result of conferences that have been held.

Furthermore, throughout the State, and I again want to emphasize that these community councils have been extremely effective in the city of Buffalo. We had an incident in the airplane industry, and this antedates the establishment of my commission. We have seen the employment of a considerable number of Negroes there and in one instance a complete conversion of the management of the organization of a plant where one of the vice presidents of one of the large aircraft companies there is now an active member of our Buffalo council.

So it is in the city of New York where the president of one of our large banks is chairman of our local commission.

In Binghamton, organizations such as IBM and Endicott Johnson Shoe Co.—

Senator DONNELL. IBM is International Business Machines?

Mr. TURNER. International Business Machines. They have cooperated in the organization of our local council there and participated in bringing to the community and trying to work out with employers in industry a compliance with the spirit and purpose of the law.

Senator SMITH. Mr. Turner, would you say the instances of the splendid report you gave us were brought about by the compulsory effect of the law?

Do you not think those groups would have been just as cooperative in applying to you to work those things out?

You do not think these people thought that because the law was in the background that stimulated their interest?

Mr. TURNER. It is impossible to say what is in back of a man's mind. The fact remains, however, in a great many instances where we had to act in the conciliatory process we have had some active cooperation on the part of the respondent which I think was due to his knowledge of the enforcement provision, because of his reference to them in the course of the conferences, but it is also true—and I do not want to minimize this, Senator Ellender—that if we are to change people's attitudes, people's minds, we must emphasize the educational process.

Senator SMITH. That is the very thing I wanted to say.

Mr. TURNER. My point is that emphasis is given to that educational process by reason of the fact of the sanctions the law provides. In New York we have not had to employ them, but the fact they were there, the fact that the truant officer was there, was always a threat, and the fact that the commission was armed with authority now has tended to aid enforcement, I think, to a very large extent. Considering the provisions of the law and the obligations of the employer there can be no doubt about that.

Senator ELLENDER. On that point you do not mean to say mediation is meaningless without teeth in the law, do you?

Mr. TURNER. No; I think mediation is never meaningless, and I do not think it necessarily has to have teeth in the statutes, but I do mean to say where you may have conflicting attitudes in mind or conflicting interests, that is a matter of personal interest and is a very potent element in bringing a man to a point where he will agree to mediation.

Senator ELLENDER. Mr. Turner, you state you had quite a lot of experience as a lawyer and labor relations man.

Mr. TURNER. Yes, sir.

Senator ELLENDER. Certainly in the Conciliation Service there are no teeth in the law, and yet that Service has in the past settled over 95 percent of the strikes in the country.

Why can you not apply the reasoning of Senator Smith to get the thing started?

Mr. TURNER. Senator, the power of the union to call a strike is always present today and is always a factor in inducing the employer to engage in the mediation process.

Senator SMITH. You feel that is the psychological difference in those two cases?

Mr. TURNER. I do not think the mediation process under the National Labor Relations law is necessarily a voluntary act on the part of management unless you have a law there which provides a certain measure, but beyond it all is the power of the organized labor union to strike.

Senator SMITH. I think Senator Ellender has brought out in all of these hearings here that great stress has been laid on conciliation and witnesses on both sides were opposed to compulsory arbitration.

Senator ELLENDER. Voluntary arbitration.

Senator SMITH. I agree with what is in your mind here. You are trying to protect individuals and his power to strike is not present.

Mr. TURNER. He has no remedy.

Senator SMITH. But you have the great remedy of the commission such as yours and the power of public opinion. When that commission comes to the conclusion that a case has revealed unfairness, my judgment is that any company would hesitate to be put into a position of having the commission say "this is an unfair practice."

Senator ELLENDER. You have no right to expose that?

Mr. TURNER. We have no right to disclose matters which take place during the conciliation process.

Senator ELLENDER. Even if it files—

Mr. TURNER. What took place is not admissible in evidence in the hearing.

Senator ELLENDER. Do you think it is possible where an offer is made and the contender is refused by employer, that it would have some effect probably in getting him to accept without the necessity of a conference?

Mr. TURNER. I should check up on the language in your bill, but in New York State the law specifically provides we shall not disclose what took place in this conciliation process.

Senator DONNELL. That is in this bill, but when you get to the breakdown and the whole record gets to court, there is a transcript, is there not?

Mr. TURNER. That is after the public hearings. In other words, it is not what took place in the conciliation process. It is what took place in the public hearing.

Senator SMITH. My suggestion would include the public hearings.

Mr. TURNER. The public hearing, but the conciliation process is not published.

Senator DONNELL. Anything further, Mr. Turner?

Mr. TURNER. Only to say this, and in this I would generalize, to create the condition or permit a condition to continue which deprives that essential element of the population a full opportunity to labor and to enjoy the fruits of their labor translated into opportunities for better life, better housing, better cultural objectives, so confined that their legitimate aspirations may not be raised, in my opinion is bound to create a flood of resentment.

This country at the present time is trying in its national policy and elsewhere to overcome the influence of the communistic theory. In this country it is a boring-from-within process. We know that in every condemnation of discrimination, not in every, but many, of public well-known situations of discrimination, the Communists are out in the front line and with their pickets and capitalizing on their protests of these discriminatory practices, and in my feeling it would create a group which is filled with resentment, and as they believe, justifiable resentment against a social order which permits these things to exist, is to create a very fertile field for the sowing of ideologies which are opposed to the principles of our American people.

It seems to me that this is a situation which must be dealt with not on the basis of sentiment, but as a practical matter. Even if it is not attempted to deal with it on the basis of morals or good ethics, it is essential that in the preservation of the social order which we want here in America, that something of this kind must be done in order to protect the economic rights of the minority groups.

Senator IVEA. Mr. Chairman.

Senator DONNELL. Senator Ives.

Senator Ives. There is another angle in connection with the question Senator Smith has raised in connection with this bill. It is one which causes a very great difference of opinion. I do not know whether you care to express an opinion on it. If you do not, all right. If you would, it would be helpful.

There is a school of thought in this country that believes this question of discrimination should be approached from the State angle, as in New York, New Jersey, and others, and not on the Federal level.

I do not happen to subscribe to that idea myself; but I believe you have given it considerable thought, and your experience in New York would probably give you some definite ideas and definite information in that connection, and I would like to get your opinion if you would be willing to express it, as to the advisability of its being an over-all pattern for the United States along the line now being followed in the State of New York, as indicated by this bill.

Mr. TURNER. Senator Ives, I want to say in New York we feel we are immeasurably strengthened by the fact that the State of New Jersey has a law which became effective about the same time ours did, and a similar bill has been in force for a year in Massachusetts, and the Connecticut Legislature has now passed an antidiscrimination law.

The fact the area is covered has added strength to the enforcement of the law, I believe, and to its effect and the fact in the instance of three of those States the laws are so much alike in their terms it has enabled a cooperative effort and policy.

We have had instances in New York where with New Jersey we have the same employer affected where he had employment in New York and also employment in New Jersey, and the ability to work with the division against discrimination in New Jersey has been extremely helpful.

From that, I would be inclined to argue, sir, that the entire case of discrimination in employment would be benefited by a national law.

Senator DONNELL. If a national law were passed, it is your present judgment the need for State laws along these lines would no longer exist?

Mr. TURNER. I would think so, Senator, in view—

Senator DONNELL. You would think which?

Mr. TURNER. I think there would still be necessity for State laws.

Senator DONNELL. Why?

Mr. TURNER. Because you will have intrastate employment which carries outside the field of Federal enforcement, as I see it.

Senator DONNELL. Is there anything further, gentlemen, of Mr. Turner or Colonel Garside?

Colonel Garside, would you pick up the situation and add to it anything you can think of?

Mr. GARSIDE. I subscribe enthusiastically to everything Mr. Turner has said, but there is one thing I can say that might be helpful and which he would not like to say.

That is, that the character of the administration of the law is tremendously improved.

I can say that because I have only been in office 2 months, and what I am trying to do is to follow the path clearly laid out by Mr. Turner

I think that some of the testimony this morning bears a relationship to a character of discrimination. If a law of this sort were turned over, let us say, to pressure groups, it would not last very long.

Mr. Turner had the very difficult task of setting up the commission, assigning cases to the other commissioners, and guiding them in their thinking and their method, and as a result of his pioneering effort, each of the commissioners now approach every case in a judicious, statesman-like manner, and it is very interesting to observe that very often a commissioner will dismiss a complaint on the merits after a complete investigation.

That means that a man thought he had a grievance. He thought he had been discriminated against, but when you examine the facts that really had not happened.

There was a very interesting situation in up-State New York in a large industrial community with a substantial Italian population developed and a good deal of racial bitterness became apparent at the end of the war.

Some of the Italians were definitely of the view that they were being discriminated against in discharges. The Italian community became very bitter.

An investigation there disclosed that the Italians had been discharged solely on the basis of seniority, that there was no racial discrimination whatsoever. In consequence thereof the Italian community was made completely happy and satisfied and the employer was so pleased with the work of the Commission that he widely publicized its findings, something which we would not have done, but which he could do.

Now those people had what they thought was a grievance. They had a public agency to which to turn. They turned to the agency, and they investigated the facts with the consequence happiness was restored to the community.

That happened to be a complicated case, but throughout the day-to-day work of the commission, with the sort of wisdom Mr. Turner employed, you do not hurt feelings, you do not affront people, but you do make progress in breaking down the barrier of discrimination wherever it appears.

There is one other thing which I do not think Mr. Turner emphasized and that was the division of education which operates in the commission, which in turn works closely with the State department of education. Together, they work in the public schools of the communities of the State.

They are making progress in educating people to the evils of discrimination and the wisdom of eliminating it.

It is a social business. I have been particularly surprised that there are not more complaints.

I think Mr. Turner pretty well covered that. People are aware of the law and for the most part they want to comply with it, and the other fact is the State has established an agency to which any aggrieved person can go which tends to disprove some of the talk of discrimination which heretofore existed. If a man knows a competent State body is going to investigate the facts and determine the accuracy of the charge, he is going to be less likely to make the charge unless he is pretty sure he is being discriminated against.

Senator SMITH. I am going to suggest that some of the tables Mr. Turner has there are valuable for the record, showing the total number of cases and closed cases and those settled and so on.

I will let you select from those the ones you think will be of interest to the committee.

Mr. TURNER. Should I state for the record what they are?

Senator SMITH. Not to state for the record, but furnish them for the record.

Mr. TURNER. If Colonel Garside would accept.

Mr. GARSIDE. I do.

Mr. TURNER. I think there has been filed with this committee a copy of our annual report as of December 31. I do not think copies have been sent to all members of the committee, but if the colonel could arrange for that perhaps that could be done and there could be inserted in that as a flyleaf the last statistical break-down.

Senator SMITH. I had in mind information of this kind, the total number of cases you have had since the commission began.

Mr. TURNER. Yes. That is in the annual report. There is a full report of the traditions and some of the achievements of the commission, and in addition to that a policy, such as we have and which is furnished biweekly to the members of the commission, could be brought right up to date and sent down to members of the committee.

Senator ELLENDER. I think Mr. Turner should submit at least those tables used as the basis of the statement he made.

Senator SMITH. Just to supplement your testimony and Colonel Garside's testimony.

Mr. TURNER. If I might, I would like to have this correction made before I submit it.

(Subsequently an amended table was filed with the committee.)

Senator DONNELLY. Let Commissioner Turner and Commissioner Garside cooperate in furnishing such information as the committee desires.

Mr. TURNER. Yes. That will be Colonel Garside's function. I am ex-chairman.

Senator SMITH. Colonel Garside, you have heard this discussion of legal sanctions and I am wondering whether you have had experience enough to have a conviction on that point.

You see what I am driving at is to get an atmosphere created rather than "must" legislation.

Mr. GARSIDE. I alluded to that delicately. I think that the sanctions should remain in the law, but if the President of the United States appoints the sort of Commission that I would expect him to appoint, I could hardly picture the Chairman or a member of the Commission dashing down into Mississippi the first week and attempting to change overnight the entire character of Mississippi laws.

I think that any competent commission would be bound to move more slowly in Mississippi than they would in Detroit.

It is nothing new in—

Senator ELLENDER. The Commission has no option whatever on that, Mr. Garside?

Mr. GARSIDE. Let me come to this point, Senator. There is nothing new in our democracy in the idea of pressing the viewpoint of the majority of the people and in enacting a statement of law and not rigidly enforcing it everywhere.

Every State in the Union has laws on its statute books that are enforced to a greater or lesser degree, depending upon the state of public opinion in those counties of that State.

It has been so for 150 years or more, and it will always be.

Senator DONNELL. Are you willing to leave the enforcement of the Federal statute to a greater or lesser degree in the various States?

Mr. GARSIDE. Every Federal statute on the books is administered in that fashion.

Senator DONNELL. When a Federal law is made I believe it should be enforced throughout the United States, but I want to make that fact clear, I do favor education, mediation, and preliminary processes, but after all, when a law is enacted it is the law, and I cannot conceive how any official could countenance the enforcement to a greater or lesser degree when a law is passed.

Mr. GARSIDE. Bear in mind I am not talking about the oath a man takes to enforce the law. I am talking about the discretion he applies in enforcing it. The Interstate Commerce Commission does just that. So does every agency pass upon the facts in a given situation and a given locality in the exercise of their discretion for reaching various conclusions as a possible course of action and a wise course of action. It has always been so. It does not mean you vitiate the law in the process. I am thinking of discretion that is necessarily lodged in any responsible official saying how he shall proceed, when he shall proceed, the course of action he shall follow to make effective the law. Do I make that clear?

Senator IVES. I do not think you and the chairman are talking about the same thing. I do not think you mean enforcement. I think you are thinking of the procedure to arrive at a decision.

You believe in enforcement. There is no argument about it?

Mr. GARSIDE. Certainly.

Senator IVES. You are talking about the procedure in any locality, a delayed procedure against a very speedy one?

Mr. GARSIDE. That is right.

Senator DONNELL. It seems where there is discretion lodged in a public official, it does not mean that a rule shall be laid down that there must be 30 minutes of conciliation and 21 minutes of other procedure. Certainly there is no such contention as that, but I shall never subscribe to the position when a law is passed that it is left to the discretion of some official whether it shall be enforced to a greater or lesser degree.

I want to go on record unequivocally, and irrevocably, and finally as to that.

Mr. GARSIDE. I agree with you.

Senator IVES. I feel the same way, but I do not think that is pertinent to this situation.

Senator DONNELL. I believe it is.

Is there anything further of these two witnesses?

Senator SMITH. I do not think that Colonel Garside has quite finished.

Mr. GARSIDE. I have just about completed.

Senator SMITH. I am just exploring the wisdom of such legislation as this which we all admit is going into a new field to do something we all agree must be done. We must prevent discrimination and give opportunity for economy and education to everybody. It is just a

question whether we can pass a law to accomplish it, whether we are wise enough to lay one down.

Let us admit there are areas where prejudice is stronger. Not only the South, but the Midwest and the State of California is very sensitive about this due to the Japanese situation. The South—I am not accusing them of being the only area. I am simply stating where you have public opinion to deal with it might be wise to show by the proven method of trial and error and not force a law the Federal Government will have to deal with rather than show the cooperative spirit referred to by Mr. Turner. I think what Mr. Turner did with these big business concerns is excellent.

I am not sure I would agree you could have brought that about if you had said, "This is the law and you must obey it." Fortunately that was not in the law you have but because the law was back there and the heads of those companies in Rochester felt they had better do it before it was too late.

Businessmen want to see these problems solved. In many cases they resent the encroachment of the Federal Government in saying you must do this and this.

Mr. GARSIDE. It is interesting. A group of businessmen were to meet with our commissioners to discuss the formation of a local council in that area. One of the group expressed the opinion that the creation of a local council was not wise, and one of the others who was the head of the leading industry said, "Let us have some sense in this thing. We know the commission is going to create a council. Therefore it is better for us to come in and cooperate."

We had certain authority. We were a legalized body and had certain powers. It certainly impressed itself on him enough to change his mind.

Senator DONNELL. Now, are there any further questions of these gentlemen?

Senator SMITH. That is all I have.

Senator DONNELL. Any further questions, Senator?

Senator ELLENBER. I have others but I am not going to impose on them.

Senator DONNELL. I deeply appreciate you gentlemen taking your time to come and give us the benefit of your testimony.

The chairman has received a letter dated June 17, 1947, from A. Philip Randolph, with which letter was enclosed four documents, one a statement by William C. Jason, Jr., of the National Alliance of Postal Employees; the second a statement on the letterhead of the Illinois Council for a State Fair Employment Practices Law; the third a statement submitted by Joseph D. Lohman, associate director for race relations, Julius Rosenwald Fund, and lecturer in sociology, University of Chicago, Chicago, Ill.; and the fourth a statement by the Most Reverend Francis J. Haas, bishop of Grand Rapids; and Mr. Randolph in his letter requested that the first three documents mentioned be inserted in the record of the hearings on S. 984 and expressed the hope that the statement by Bishop Haas also be made a part of the record in the hearings in this matter.

If there is no objection, and I pause for objections, these four documents will be received.

(The documents referred to follow:)

STATEMENT OF THE NATIONAL ALLIANCE OF POSTAL EMPLOYEES BEFORE THE SENATE PUBLIC WELFARE COMMITTEE, SUPPORTING THE NATIONAL ACT AGAINST DISCRIMINATION IN EMPLOYMENT, S. 984

My name is William C. Jason, Jr. I am the welfare director of the National Alliance of Postal Employees and am appearing before this committee for Mr. Ashby B. Carter, of Chicago, the president of this organization. I am here at his special direction.

The membership of the National Alliance of Postal Employees is composed exclusively of those who work or have worked in some branch of the postal service. The most of them are clerks, carriers, railway mail employees, mail handlers, custodial employees, and chorwomen. The 15,000 members are organized into 92 branches which are divided into 10 districts coextensive with the area of the United States.

The National Alliance of Postal Employees most emphatically favors the passage of Senate bill No. 984. The history of this organization quickly explains this position. In 1913, the alliance was organized because of the growing discrimination in the postal service which was reflected in a wholesale dismissal of Negro railway mail clerks. Even today, the need for this organization is found in the irregularities incident to appointments, upgrading, preferred assignments, and supervisorships, frequently experienced by eligibles who are members of this minority group. As Federal employees we have naturally looked to the Federal Government for correctives.

During the existence of the President's Fair Employment Practice Committee, several of our branches sought to gain just, indiscriminatory patterns of appointment and upgrading throughout the postal service by addressing themselves to that committee. The ineffectiveness of this procedure was due to the lack of authority vested in that committee. We are happy to note that provisions of section 10 of this act feeling that they are mild enough for all officials of good intent if forcible enough to demand a respectful compliance.

The alliance membership in branch, district, and national sessions has constantly voted active and financial support for a national bill that would cancel out discriminatory employment practices wherever found in Federal agencies. This position of our organization has not been taken solely because of the bitter experiences of members seeking appointments and upgrading. Each of us as a member of the American family has witnessed employment discrimination affecting our fathers, mothers, sisters, brothers, and children.

We are on safe grounds when we state that job discrimination is far too fashionable and popular in this country. Those most prone to discriminatory practices announce their position without hesitancy and challenge those who believe in fair employment practices.

This organization is of the mature mind that democracy to survive, thrive, and encompass the earth must make discrimination unpopular, unprofitable, and impossible throughout the land. This is required to effectuate our role as the most potent exponent of democratic procedure abroad.

It is our further opinion that the most effective process for combating subversive tendencies are found in the passage of Senate bill No. 984, because such a measure shows conclusively that the Federal Government is not inclined to longer adopt an indifferent role to those who daily practice a limitation of democracy in employment.

To bring this statement directly within our organizational experience, we have not yet been able to find within the framework of governmental procedure the means whereby the members of this minority group, even those who are veterans with 10-point preferences, can acquire clerkships in a number of post offices like Memphis and Knoxville, Tenn., and New Orleans, although they have met the civil-service requirements.

We could give in detail many of the general observations made by others in behalf of this measure. We do not feel that such is required. We are sure that you, the committee, appreciate that we know from bitter experience what we are talking about. In spite of all that employees of our group have suffered in some sections of the postal service, we hasten to acknowledge that we are infinitely better off than many others. We need the passage of this bill; they infinitely more so.

In conclusion, to show how sincerely and seriously we desire the passage of this bill, I have attached copies of a brochure which the alliance prepared in quantity and has circulated from the national office as an insert for the past year.

We thank you for this opportunity to appear. We hope that the committee can find merit in this presentation.

Respectfully submitted,

W. C. JASON, Jr., *Welfare Director*.

A FAIR EMPLOYMENT PRACTICE LAW AND THE ALLIANCE

Almost everybody in the alliance belongs to America's largest minority group.

Almost everybody in the alliance is sensitive to unfair employment practices because he has experienced them himself or with his own eyes has seen people denied jobs or all jobs but the dirtiest, lowest-paying ones, because of race, creed, or national origin.

The alliance knows that Christian preaching, democratic teaching, and impartial justice—all of them together—have failed to remove this economic cancer that is destroying America as the "land of opportunity."

The alliance knows that even in the despoil of total war with its near total employment, an Executive order was required to give millions of loyal Americans a chance to contribute their skills to victory.

Although Executive Order No. 8802 was imperfect in its application, it conclusively showed that nothing short of a national law can fully protect 40,000,000 citizens—Negroes, Jews, Catholics, and the descendants, if not the actual foreigners, of Europe, Mexico, and the Orient—in their rights to jobs as big as their God-given abilities.

Because the alliance was born as a desperate attempt to stem the rising tide of discrimination in the postal service; because the alliance has down the years fought as best it could with a limited format, limited funds and limited friends, we hailed the Fair Employment Practice Committee as a sorely needed ally in the Nation-wide struggle for equality of job opportunity.

Because the alliance knows that the destruction of the Fair Employment Practice Committee, and the failure of Congress to pass a fair employment practice law, are at sharp variance with the expressed wishes of the majority of the American people; because the alliance sees each day more and more employees revert to the old reactionary practice of openly advertising, "Help wanted, white, Gentile, Protestant," the alliance is committed to do all in its power through its national offices, its branches, and its individual members to bring about the passage of a bona fide fair employment practice law—a law that is most emphatic concerning Government agencies and utilities (local and national because of their public nature) but which does not omit private employments from its application.

The alliance is certain that a fair employment practice law is necessary as an added section to the Bill of Rights, thereby establishing in America's most sacred document the right to equal work opportunities.

The alliance is convinced that a fair employment practice law is needed to implement the fourteenth and fifteenth amendments to the Federal Constitution, as a fuller definition to citizenship rights and immunities.

The alliance concludes that a fair employment practice law is as necessary to protect citizens from exploitation through discrimination as are the laws against murder and theft.

EDUCATIONAL COMMITTEE, NATIONAL ALLIANCE OF POSTAL EMPLOYEES,
HAROLD L. PILORIM, *Chairman*,
WILLIAM C. JASON, JR., *Secretary*,
SNOW F. GRUBBY.

THE ILLINOIS COUNCIL FOR A STATE FAIR EMPLOYMENT PRACTICES LAW.
Chicago 5, Ill., June 10, 1947.

STATEMENT IN SUPPORT OF S. 984 TO ESTABLISH A NATIONAL FAIR EMPLOYMENT PRACTICES COMMISSION

The Illinois Council for a State Fair Employment Practices Law, representing 215 affiliated civic, religious, veteran, labor, business, and community organizations throughout the State of Illinois respectfully requests favorable action on bill S. 984 establishing a national fair employment practices commission for

the American people. Executive Order No. 8802, which opened new avenues of employment opportunities for many hundreds of thousands of citizens of Illinois, provided the people of this State with the opportunities of participating freely in the economic democracy of our country. It permitted people of all races and religions to secure for themselves the equality of opportunity which enabled them to enjoy the advantages of greater purchasing power which benefited business and the community as a whole. During the war years minority groups aided immeasurably in augmenting the production of war materials and ammunition badly needed by our armed forces. Their contribution has been acknowledged everywhere as an important factor in the success of the Allied armies. The accomplishments of the President's committee can be viewed with pride in view of their successful handling of cases of employment discrimination and the effective job that was done in having industry accept the principles of fair employment and utilizing the greatest skills of the American people regardless of their race, creed, or religion. Today, with the absence of an FEPC law we view with alarm the marked increase of discrimination in employment that has taken place in the State of Illinois. There has been a substantial increase in discrimination on the part of business and employment agencies. Negroes are among the first to be discharged. War veterans of minority groups are encountering increasing difficulty in securing employment. In asking for the passage of an effective FEPC law as embodied in S. 984 the Illinois council has the support of the widest group of organizations ever formed, representing hundreds of thousands of people for the passage of any piece of legislation offered. Among the organizations supporting this legislation are: The League of Women Voters, the Illinois Council of Churches, the Illinois Federation of Labor, the Chicago and Illinois Industrial Union Council, the Veterans of Foreign Wars (Department of Illinois), the American Legion (Department of Illinois), and the Governor's Interracial commission. The passage of S. 984 will mean greater purchasing power for the people of our State, and subsequent increased markets for business. It will mean lower taxation for slums through the improvement of blighted areas. It means lower tuberculosis and child-birth death rate, and a step forward in eradicating juvenile delinquency. The experience of the many organizations in our State devoted to the problem of eradicating employment discrimination conclusively proves that the educational process is not enough; this is substantiated by the work of the President's committee which, effective as it was in time of war nevertheless has not carried its effect over into peacetime with FEPC not in effect. The experience of FEPC in those States in which it is an operation now—Massachusetts, New York, and New Jersey—reveal the accomplishments such a law can have where education is buttressed with adequate enforcement powers. Discrimination in employment is on the rise in Illinois. We urge the passage of S. 984 to provide the equality of employment opportunities to all citizens of our State.

EDWARD MARCINIAK,

Chairman, Illinois Council for a State Fair Employment Practices Law.

**STATEMENT MADE FOR THE SUBCOMMITTEE OF THE SENATE COMMITTEE ON LABOR
IN BEHALF OF SENATE BILL 984**

[Submitted by Joseph D. Lohman, associate director for race relations, Julius Rosenwald Fund, and lecturer in sociology, University of Chicago, Chicago, Ill., June 13, 1947]

It is a paradoxical comment on American democracy that in the desperate war years some of the most important advances toward the practical realization of our democratic creed took place. While we were engaged in the tragic struggles abroad, the requirements of the fighting front demanded that we utilize all of our resources—both human and material—at home. Under the watchful and encouraging eye of the President's Committee on Fair Employment Practice, American industry put aside—as never before—the shackling and disabling employment policies of discrimination and prejudice in the crucial defense industries. Thousands of American citizens entered our factories in the service of democracy. Many of these had been previously barred from industrial and commercial employment because of discrimination as to color, race, religion, or national origin. We became the arsenal of the democracies, but the marvels of our production were in no small degree due to the fact that the necessity and urgency of our

critical military situation pressed our American democracy to rise above its narrow and traditional prejudices, if victory was to be won.

The prosperity and well-being of the people of the United States, in peace as in war, require that our American democracy continues to rise above its narrow and prejudicial practices in employment discrimination. Not only is this a matter of economic justice; that is, the equality of employment opportunity without which equality of citizenship is only an empty phrase, but the persistence of discriminatory practices in employment are a source of social tension and strife, a tremendous burden which stifles the economic life of the whole Nation through the inefficiencies and depressed wage levels which it fosters and maintains.

No one questions the exercise of police powers in the protection of our basic civil rights. These police powers, however, have functioned most frequently as a guaranty of our political freedoms and liberties. What does it avail a man to be free to worship as he will, to enjoy freedom of speech and cultural distinction, to be free of racial penalties in the exercise of the suffrage, if in the very enjoyment of these guarantees of his individuality he is not equally free to secure and hold a job? If men of different persuasions, religions, nationalities, and races are to be truly free, in accordance with the tenets of our American democracy, then they must be free to seek a livelihood without prejudice, even as they are now assured that their differences must be respected, not treated as a disability, in their civil and political relations. The notion of civil rights is always partial and incomplete until it encompasses the right to equality of opportunity in the struggle for a livelihood. To guarantee the right of equal economic opportunity by law places no burdens upon our free enterprise system. Indeed, it reinforces it, for the findings of the biological and social sciences have firmly established that the color of a man's skin, the shape of his skull or shinbone, or his religious beliefs have nothing to do with occupational skills. These acquired skills are not dependent upon an individual's race, nationality, or religion. The unwarranted exercise of discriminatory employment policies denies the individual employer, as well as society at large, the benefits of efficient business practice. The American industrial system has flourished on the assumption that it is imperative in the maximizing of profits to employ the most efficient man on the job. There is no valid reason for prejudicing the public welfare merely because bigoted employers or union leaders lose sight of their real self-interests. The practices of discrimination in employment deny the bigoted employer a greater efficiency and profit in his business operations when he persists in the hiring of employees on the basis of their complexions or religious affiliations, rather than on the basis of their skills.

Notwithstanding the significant advances in minimizing discriminatory practices made during the war years, the situation remains critical and an alarming deterioration has set in. The striking contrast between the average incomes of Negro and white families in the cities of the North Central States, such as Chicago (\$1,720 per year for white families and \$1,005 for Negroes) is a direct result of the systematic confinement of Negroes to jobs of a less desirable and low-paying nature. In effect, there is a ceiling on the kind of job which most Negroes can aspire to enter. There are many jobs that are not open to Negroes. One needs only to visit the banking, commercial, and office building areas of a large metropolitan community such as Chicago in order to observe the limited number of Negroes who are employed at jobs other than such menial ones as janitor, bus boy, porter, cleaning woman, or common laborer. More specifically, banks, insurance companies, real-estate firms, and other financial institutions outside the Negro area do not employ Negroes at clerical or administrative levels. Few, if any, of the major department stores knowingly employ Negro sales persons.

Discrimination against Negroes has kept their job ceiling and their earnings low. They are nearly universally excluded from white collar and professional jobs. Whole categories of the skilled trades and semiskilled services have long excluded Negroes and only a few have been recently opened to a few Negro candidates. The extent of exclusion of Negroes from white-collar opportunities is indicated in the fact that only 1 out of 15 Negro workers, exclusive of farmers, has succeeded in obtaining white-collar employment. However, nearly three-fifths of all urban white workers, 8 out of 15, have white-collar jobs.

The effect of such systematic exclusion from the better classes of work is to confine the Negro to jobs of a less desirable nature, the menial, the lower-paid jobs or no jobs at all. This pattern is pronounced throughout the city of the United States. Negroes and the foreign-born perform a disproportionately large

amount of the manual labor and the servant work of American urban communities. For example, although Negroes make up less than 10 percent of the population of Chicago, they hold roughly about 2 percent of the "clean" jobs and perform 34 percent of the servant work. As many as 60 percent of all white male workers are classified as skilled, business and professional, or clerical. However, only 25 percent of all Negro male workers have such jobs.

The situation is somewhat more covert and subtle in the case of discrimination against members of the Jewish and Catholic faiths, but it is, nonetheless, true. A survey of employment discrimination against Jewish workers in the Chicago area revealed that 82 of the 83 employment agencies included in the study required that applicants state their religion and lineage. Twenty-seven of the agencies stated that it was more difficult to place Jews than non-Jews. In as many as 16 percent of all job orders, religious specifications were frankly stated and 60 percent of the agencies ask employers to state their religious preferences.

Under these circumstances, it is not surprising that the Negro, the Jew, the Catholic, the so-called minority groups, are striving constantly to break through the job ceiling and secure entry into the skilled and white-collar jobs. These efforts by substantial numbers of individuals give rise to considerable resentment and hostility. They are the mainsprings of much of the tension which underlies racial and religious disturbances.

A study by the United States Employment Service in 1942 revealed that over 51 percent of the large industrial firms possessing war contracts would not hire Negroes under any circumstances, and only one-half of the others stated that they would hire them without reservations. Negroes are not only discriminated against in skilled jobs, but it can be seen that they are often even denied access to the unskilled jobs.

The salutary influences of the now defunct President's Committee on Fair Employment Practice of the war years are rapidly escaping us in those communities where local legislation has not been prepared to store up the dam and continue the educative influence of the war experience.

Complaints of discrimination are again on the increase. It can be expected that the trend will continue unless earnest measures are taken to reemphasize and reinforce the democratic creed. The offices of the Illinois State Employment Service report notable increases in discriminatory order. In March of 1946 the United States Employment Service, at the request of the President's Committee, made a study of their discriminatory orders in five midwestern communities. The survey revealed that in Chicago over 35 percent of the job orders discriminated against Negro workers. This figure did not include a large percentage of orders to which, by tacit agreement, no Negro worker was referred. Recently, the Illinois State Employment Service, successor to the USES, reported that discriminatory orders had increased to well over 50 percent.

These developments should give occasion for sober reflection. Under expanding business conditions, groups with minority status are the last to be hired, but under recession conditions they are the first to be laid off. This pattern is already upon us. The effect upon Negroes of fluctuating economic conditions can offset all their wartime gains. This is pointedly illustrated by the experience of the Illinois counties of Du Page and Cook which are the core of the Chicago industrial area. Between 1940 and 1945 these counties experienced a net increase of over 250,000 employed persons. Of this increase, 45 percent was due to the increased employment of Negroes. In March 1940, one out of every 5 Negroes was employed in manufacturing, whereas by January 1945, the proportion of Negroes so employed had increased to the point that one out of every two Negroes was employed in manufacturing.

The total employment figures since 1945 have held up better among whites than among Negroes. Unless discriminatory practices are declared illegal as a matter of law, this trend will certainly continue. The feelings which are generated under these highly competitive cut-back conditions make for much resentment, particularly since many Negroes have, for the first time, enjoyed jobs of higher status and greater income than ever before. Such gains are never gracefully relinquished. The tensions in the postwar employment situation will be directly in proportion to the amount of discriminatory action in cut-backs and shifting employment as well as in relation to the amount of over-all unemployment. In the competition for jobs and income, much of the friction between the various racial, religious, and nationality groups is generated. When the labor market is glutted; that is, employment is low, minority groups invariably become the subjects of discrimination, particularly if workers generally are insecure in their

jobs. Desperate individuals often seek to insure the security of their jobs by ruling out Negroes or other minorities as possible competitors.

Denial of economic opportunity—that is, equal access to jobs—inevitably affects our whole standard of living. It has produced inferior housing, inadequate education, and lower standards of health, not only for those discriminated against but in the entire community. Booker T. Washington put the problem squarely when he said, "You can't keep a man down in a ditch without getting down there with him."

The proposed Federal law against discrimination in employment is our surest protection against the aforementioned evils. Wherever such legislation has been enacted, the effects have been salutary. The New York experience is a challenge to the Nation. Not one of the objections raised during the legislative debates has materialized. Far from establishing a record of force and coercion, it has proved to be an instrument of public education and enlightenment. To those who insist that discrimination, rooted in ignorance and prejudice, is responsive only to long-time educational measures, the answer is clear. The most effective educational weapon in combating discrimination in employment is the passage of the legislation providing for the establishment of a Permanent Fair Employment Practice Committee such as is provided in Senate bill 984.

NATIONAL COUNCIL FOR A PERMANENT FEPC, WASHINGTON, D. C.

The Most Reverend Francis J. Haas, bishop, of Grand Rapids, and a member of the board of directors of the National Council for a Permanent FEPC, has sent the following letter in support of S. 984, a bill to abolish discrimination in employment, to Robert A. Taft, chairman of the Senate Committee on Labor and Public Welfare. Bishop Haas has advised A. Philip Randolph, cochairman of the National Council for a Permanent FEPC.

DIocese of GRAND RAPIDS,
Grand Rapids 2, Mich., June 10, 1947.

HON. ROBERT A. TAFT,
Chairman, Committee on Labor and Public Welfare,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Permit me to address the present statement to your committee in support of Senate bill 984, which prohibits discrimination in employment because of race, religion, color, national origin, or ancestry. I earnestly hope that this bill will become law.

I offer no lengthy comment on the underlying principle of the bill; that is, that all American citizens are equal, and that all are entitled to have their right to equal opportunity protected by law. To me both as an American citizen and as a Catholic bishop this principle needs no supporting argument. Equality is among our most treasured American possessions, as it is a central doctrine of Christian faith, which proclaims that all men are equal before God, made equal before Him through His divine Son Jesus Christ.

In my judgment, the concept of equality together with the obligation of government to protect it requires no reasoned proof. In fact, I doubt whether it can be so proved. To try to do so would be almost like trying to prove that the sun is necessary for human existence. In my view, the friends of the bill should not even bother trying to prove that this principle is sound. They should rather put the burden of proof on the opponents of the bill to show—which of course they cannot and, may I add, dare not do—that the principle is not sound. But this feature of the whole matter may be only incidental. In any event, I accept without qualification the basic principle from which S. 984 starts, and I am convinced that every true American and every believing Christian does the same.

Having said the foregoing, I ask leave to comment briefly on what I regard as the heart and lifeblood of bill S. 984, namely, its provisions for enforcement by the courts. I sincerely hope that your committee in its recommendation to the Congress will retain this vital section of the bill and that the Congress in its action will do likewise.

The bill as drafted provides for conciliation of complaints provided that such conciliation effectuates the terms of the act. Such conciliation efforts are in my judgment, which is based on my experience as Chairman of the President's Committee on Fair Employment Practice in 1943, highly desirable and they may be regarded as work of tremendous educational value. They should by all odds be continued.

But education of such character, valuable as it is, is not enough. Much more is required. Legal enforcement by the courts is essential, and I earnestly hope that the Congress will hold firmly to this basic provision of the bill without in any way compromising on it.

Frankly, I become a bit impatient with persons who insist that the whole matter of securing fair employment opportunity for all the people without discrimination, is solely the business of education. In too many instances their position amounts to holding that a just social order is to be built brick by brick, but that only one brick is to be laid every hundred years. We may not resign ourselves to such a policy of defeatism and of doing nothing.

Education and more education, indeed, we need. But it may well be doubted whether in the field of fair employment opportunity we can educate unless we also legislate. And legislation in the present case means not only providing for opportunity for conciliation but also for the use of government to effectuate the declared purposes of the proposed act whenever conciliation efforts are found to be inadequate.

I earnestly hope that your committee will recommend S. 984 as it stands and that the Congress will without delay enact it into law.

Respectfully yours,

Most Reverend FRANCIS J. HAAS,
Bishop of Grand Rapids.

Senator DONNELL. Is Mr. Joseph Bustard present?

Mr. BUSTARD. Yes, Senator.

Senator DONNELL. Mr. Bustard, it has arrived at the hour of 9 minutes past 1 this afternoon.

Our committee finds itself in this situation: At 2 o'clock this afternoon there is a Subcommittee on Labor of which Senator Ellender, Senator Murray, and myself, members of this committee, are also members, which will hold an executive meeting on a very important matter.

The Senate also is to vote at 4 o'clock, as per unanimous-consent agreement, upon another very important matter.

I think in view of the fact all of us, both the members of the committee and the witnesses, would like to get a little lunch in the meantime, it will be necessary to recess, and I am wondering if 3 o'clock this afternoon would meet the convenience of Mr. Bustard and members of the committee to resume.

We will necessarily adjourn or recess a few minutes before 4 o'clock.

Will that meet your convenience, Mr. Bustard?

Mr. BUSTARD. I was planning to get the 3:45 train.

Senator DONNELL. How long would your testimony require?

Mr. BUSTARD. I planned only to take 15 minutes, but as most of the witnesses have consumed much more time I would perhaps be longer.

Senator SMITH. Mr. Bustard comes from my State of New Jersey. I am very much interested in hearing from him.

Mr. BUSTARD. Will the hearing start promptly at 3 o'clock?

Senator DONNELL. On reconsideration, I think we will adjourn until 2:45. This room will not be open either to witnesses or the public until the conclusion of the executive meeting at 2 o'clock, and if agreeable with Mr. Bustard, and other witnesses, and to the committee, we will resume at 2:45.

I had entirely overlooked the fact that Mr. Roderick Stephens is on the list of witnesses.

Is Mr. Stephens here?

Mr. STEPHENS. Yes, Senator.

Senator DONNELL. Mr. Stephens, what is your convenience? Do you want to get back to New York this afternoon?

Mr. STEPHENS. I had hoped to leave this evening.

Senator DONNELL. We will meet at 2:45 and we will see how it goes. I have explained the circumstances. If it appears impossible we may have to ask you to come back tomorrow morning.

Mr. STEPHENS. We will if necessary.

Senator DONNELL. Thank you. That is a very fine spirit.

The committee is in recess until 2:45.

(Thereupon, at 1:15 p. m., the subcommittee recessed until 2:45 p. m. this day.)

AFTERNOON SESSION

(The hearing was resumed at 3:10 p. m., pursuant to recess.)

Senator DONNELL. Mr. Bustard, will you take the stand?

Senator SMITH. Just for the record, I want to say that I am very happy to see you here from the State of New Jersey. I am familiar with the splendid contribution you have made to this difficult subject as part of our department of education project.

Senator DONNELL. Gentlemen, in view of the fact that Mr. Bustard comes from Senator Smith's State, I would suggest the Senator conduct the examination of Mr. Bustard.

Senator SMITH. I just want to state a preliminary question. When this matter came up in New Jersey there were reasons for putting the commission under the department of education.

Now, I would like Mr. Bustard, if you would, to give us briefly your background and the relation of this work to the department of education in New Jersey.

Mr. BUSTARD. Yes, sir.

STATEMENT OF JOSEPH L. BUSTARD, ASSISTANT COMMISSIONER OF EDUCATION, DEPARTMENT OF EDUCATION, STATE OF NEW JERSEY

Mr. BUSTARD. I was born in New Jersey, Paterson, N. J.

I went to teachers' college in New Jersey, and from there to Rutgers University, and I received a master's degree in education from Columbia University.

I was a teacher, a high-school coach, in elementary and high schools, and a principal and superintendent of schools in New Jersey.

Senator SMITH. You were?

Mr. BUSTARD. I was.

The law was passed in New Jersey in April 1945, and became operative in July 1945, at the same time the New York law became operative.

Senator SMITH. Will you state for the record why this was placed in the department of education?

Mr. BUSTARD. Yes; I was going to mention that, Senator.

There are two reasons. One reason why that was done is this: While this law was being enacted in New Jersey the Governor at the same time was streamlining the State.

Senator SMITH. Governor Edge?

Mr. BUSTARD. Yes, sir; and while he was in favor of the law he did not want to create a new branch of State government. He wanted to fit it into an existing branch of State government.

Some people claimed it should go into the department of labor and I believe it was Governor Edge who came forward with the idea of putting it in the department of education because he felt so many of the matters dealt with were matters of educational nature rather than a strictly department of labor matter, and to the best of my knowledge that is about the logic and reasoning that was used in the placing of it in the department of education, feeling that the success of the law depended upon education as well as upon enforcement.

Senator SAKITH. Thank you very much, Mr. Bustard.

Senator DONNELL. You will proceed, then, Mr. Bustard, with your statement.

I note that you have filed a brief and is it your suggestion that we incorporate this brief in our record of this proceeding?

Mr. BUSTARD. Yes, sir.

Senator DONNELL. It will be so incorporated.

And you also presented an annual report. Is it your idea that that should likewise be incorporated?

Mr. BUSTARD. Yes, sir; that was attached to the brief, and it consists of substantiating evidence.

Senator DONNELL. The annual report will likewise be incorporated in the record.

Will you proceed with your statement at this time, Mr. Bustard?

Mr. BUSTARD. I think that any presentation should be pressed with a little philosophy. I might say that many of the things I might have to say or am going to say are very similar to the things that Mr. Turner said, because our experiences in New York and in New Jersey have been almost identical right from the time we started, and we have been running parallel as well as having joint conferences and trying to work the thing out together.

I think that I might say this, when the New Jersey Legislature passed this, it did not, as some people assume, create a new civil right, but I think the New Jersey Legislature had in mind trying to make the Declaration of Independence work.

In other words, when we talk about life, liberty, and the pursuit of happiness I think we had in mind the idea that certainly a man can never achieve happiness if he cannot get a job, particularly when he is qualified.

I think that many of the people in New Jersey that did not in the beginning accept this law, have accepted it when this philosophy has been presented to them.

Senator DONNELL. Mr. Bustard, by this question I mean no impertinence or any expression of opinion on this proposed legislation, but I want to ask you what you would think about the employers, or of any employer, who might say what employee, or while an employee has a right to life, liberty, and the pursuit of happiness, I, as an employer, likewise have the right in the pursuit of my happiness to use my own best judgment in the management of my business and if I think, says the employer, that it would be better for me from the standpoint of harmony in my business to follow the plan of using persons of one race only in my business, then in the pursuit of my happiness I have as much right to exercise that privilege as has the employee on the other hand to be employed.

In other words, what would you have to say about that arrangement?

Mr. BUSTARD. I do not think it could be quite consistent for an employer to take that stand. The employees enjoy certain privileges as a result of government in this country. Certainly the employer enjoys certain privileges as a result of the Government in this country. He enjoys the privilege of doing business and making money, profits, under our system of government. He does not enjoy the right to infringe on personal liberties of other citizens.

Senator DONNELL. Do you regard it as a personal right or the personal privilege that any particular individual has to be employed by a specific employer?

Mr. BUSTARD. No; he must be qualified.

Senator DONNELL. I mean if he is qualified.

Mr. BUSTARD. Let us look at it from the other side. I feel that it is an American right that a qualified person should not be barred from employment for ancestry. In other words, he should be able to compete with any other American if he has the qualifications.

Senator DONNELL. If I may just interrupt you for a moment, I am just presenting this other side to give the other idea on it. For instance, we take an employer who says, "Here are 10 men on this side of the line and here are 10 men on this other side of the line. For my own best reasons," says the employer, "these 10 men on this side of the line will best promote my establishment"; or you, Mr. Bustard, or Senator Smith, or Senator Ellender, or Senator Donnell, may not agree with that. I will decide that I want to employ the first 10 rather than the second 10. Is there any thought in your 10 that any member of the second 10 has any civil right to say that that employer must employ me?

Mr. BUSTARD. If the men are qualified, all 20 of the men could say, "Judge us on our qualifications and select us according to merits."

Senator DONNELL. The point I am getting at is whether the employee would have a right to use his own judgment. Suppose the employer says, "I believe my business would be best served by employing all 10 of the colored men, and I am going to do that." Would he or would he not have the right, in your opinion, to do that; notwithstanding the white men step up and say, "You ought to employ some of us"?

On the other hand, suppose he says to himself or to them, "I think my best business would be conducted by having 10 white men. I therefore decline to employ the 10 colored men." Would any one of the colored men have any civil right as against this employer to say, "You must select a certain proportion of us regardless of our own personal thought."? Your own personal opinion is what; that is, what is your own personal opinion? That is the point I would like some time during your presentation to address yourself to.

Mr. BUSTARD. I was coming to that. I have a point on that later on. I would like to say that just as the New York law was a two-way law, we consider the New Jersey law a two-way law. That is, we consider that we have within the law the complaint section where it takes a verified complaint for a person to file against any one of our five illegal practices, illegal employment practices.

On the other hand, we consider very seriously this educational phase of our law. In other words, the educational phase that deals with a whole field of human relations. We think that is more important.

I heard the testimony this morning, and you gentlemen were very much interested in the number of complaints, the nature of complaints, and so on. It takes me back about 2 years when this law was first beginning to operate in New Jersey. The fears that you are expressing are the same fears that were being expressed then.

I might say I address chambers of commerce, personnel managers, the employers' groups, and so on, familiarizing them with the law.

The whole center of the law always seemed to center around the technicalities, complaints, and so forth, thinking the law was going to work as the result of complaints or the lack of complaints.

We feel in New Jersey that, as far as complaints are concerned, they are only one phase of the law and, the way the law is operating, really almost a minor phase to date. We have had to date 812 complaints, and 178 of them have been verified, formal complaints in employment.

Of these complaints, we have settled 130 of them as of May 31, as New York has done, by conciliation, conference, and persuasion.

Senator ELLENDER. When you say you have settled 130 of them, what do you mean? Did the employers take those complainants?

Mr. BUSTARD. In some cases; yes, sir. In some cases we had the same experience as in New York. We found that many had already secured a job in another plant.

Let us get away from consideration of only employers, because some of these complaints are against employees, some against labor unions; a few of them were made against labor unions, and in the labor-union cases we got the local people, not at the State level. The labor unions are on record in favor of antidiscrimination.

Senator ELLENDER. How many of the 130 that you settled originated with the unions?

Mr. BUSTARD. Not originated with the unions. They were made against the unions.

I think we had six or eight against unions.

Senator ELLENDER. Involving how many persons?

Mr. BUSTARD. In New Jersey we mean if six or eight people cause a complaint that covers one person. We do not except persons from organizations. The complaint must come from an aggrieved individual and not from an organization.

Senator ELLENDER. So that when you state you had 812 complaints altogether from July 1, 1945, to date, you mean only 812 people filed discriminatory charges?

Mr. BUSTARD. That is right. I would say 178 of that number were formal verified complaints. They involved 178 people. The other complaints were what we called informal, and some of them were what we call miscellaneous, where we operated on the level of good will without there being a formal verified complaint.

For instance, an informal complaint would come in—we have had complaints against newspapers for their advertising policy, against a series of newspapers or against an individual newspaper because of interpretations in their ads.

Those cases we cannot classify as verified formal complaints, the way they were made. We settled those complaints as a result of conference, because of the way our law reads, and as it is interpreted by our lawyers. When the legislature passed this law and the declaration

of the law, they said this: "An act to prevent and eliminate practices of discrimination in employment and otherwise against persons because of race, creed, color, national origin, or ancestry."

Now in one of our employment practices, it specifically mentions advertising, employment agencies, and so on.

Now, if we had verified formal complaints which any citizen of a State could make against a specific newspaper or against a specific ad, that would be a verified formal complaint. We have had a few of those. We have had some complaints at the good-will level against the general policy of newspapers advertising in their discriminatory ads.

As a result of that, let me tell you what we do at the good-will level and of what the complaints consist. I am going to miss that train anyway, so if you gentlemen have the time.

We had a conference with the press association in New Jersey, interpreted the law, interpreted their responsibility under the law and their obligation under the law.

They, on their own, as a result of this conference, through their State executive committee, printed their own pamphlets, their own bulletins, and sent them out at their own expense to every newspaper in the State.

In addition to that, they then drew up a bulletin like this [indicating], a list of do's and don'ts for newspapers, with the request that each newspaper in the State post that in its business office.

This was all done at the good-will level. It was not done as a result of verified formal complaints. Those are things we talk about when we talk about education in New Jersey.

Senator ELLENDER. What was the nature of these complaints against newspapers? Were they based on the method under which the—

Mr. BUSTARD. Such things as this: "Gentiles only."

Senator ELLENDER. Colored and whites only?

Mr. BUSTARD. Such expressions as, "No colored need apply," and so on.

Senator ELLENDER. And the commission has jurisdiction to govern that, too?

Mr. BUSTARD. Only on the good-will level unless a verified formal complaint is made; then that newspaper becomes just as guilty as any employer because it is aiding and abetting.

Senator ELLENDER. Would you consider that the New Jersey law is much broader than the one we are considering?

Mr. BUSTARD. We have one provision in here that you do not have, and I was going to mention it specifically, and I suppose the Federal law could work out.

We have one unlawful employment provision which says it shall be illegal for any person, whether employer or employee, to aid, abet, incite, and so on.

That provision is the provision that I think is the greatest protection to employers because that is the provision that gives an employer who is interested in production the right to hire those people that he thinks can produce regardless of race or creed or color, regardless of the union or anyone else.

We have had a complaint filed under that section by an employer that we settled very much to the satisfaction of the employer where he wanted to adjust his personnel and put certain personnel from one department over into another department. It was very vital to the success of his industry that that happen.

A group of people in that particular plant said they would refuse to work with this particular colored individual even though the employer had great faith in him, and so on.

Under this provision, he filed a complaint with us against his own men, and we settled that complaint by the conference method.

That employer today is a very happy employer. It was all done at the confidential level.

He is in Jersey City, N. J. I do not want to disclose his name or anything else, but he is an actual employer in Jersey City, N. J.

Now, a newspaper, for instance, even in our other section of our law, for an employer or an employment agency to print or cause to be printed or circulated—it would depend upon the circumstances—the person that inserted an ad might be the guilty person, you see.

Senator DONNELL. Cause to be inserted what?

Mr. BUSTARD. Cause to be inserted any statement, advertisement, or publication or to use this form of application for employment or to make any distinction in connection with the prospective employment, which expresses directly or indirectly any limitation, specification, or discrimination as to race, creed, color, national origin, ancestry, or any intent to make such limitation or discrimination unless based upon bona fide occupational qualifications.

Getting back to what you were saying—

Senator DONNELL. Is that being tested in the courts as to the validity of it?

Mr. BUSTARD. Do you mean our State constitution or the Federal Constitution?

Senator DONNELL. Yes.

Mr. BUSTARD. No; it has not been so tested. I was going to make a point there back in connection with what you were talking about, of the right of the employer to choose. In our law and in the New York law there is this bona fide occupational qualification.

Now, if the employers were making this choice on the basis of some real bona fide operational qualification, then, in those rare cases, he could not be charged with discrimination. But those would be very rare cases indeed and almost hypothetical cases.

Senator ELLENDER. Mr. Bustard, of the three hundred and some cases, I gathered that six or seven were made against unions.

How many were made against newspapers in order to determine that?

Mr. BUSTARD. I do not have that break-down on newspapers because most of the newspaper complaints were what we call informal.

Senator ELLENDER. What was the nature of the complaints as to discrimination based on mostly?

Mr. BUSTARD. The newspapers, or all of your complaints, the over-all picture?

Senator ELLENDER. Yes.

Mr. BUSTARD. The over-all picture. The experience again is very similar, showing it was against the Negroes; that is, the greatest discrimination was against Negroes. We have not had as much complaint

based on religion as New York has had. We have a few based on religion, most of those involving the Jewish religion, although we had a couple on Catholics and one on Protestants.

Most people lose sight of that, Senator, that the law is the right of every citizen in the State.

Senator ELLENDER. Of the 130 that you say were settled through the commission, you say that of that number some found new jobs and they did not get employment where they sought it.

Now, would you be able to tell us how many of the employers complied with your suggestion that you take these complainants who had made charges?

Mr. BUSTARD. All of them—all of them except in some of these cases we dismissed on merit just as New York did.

Senator ELLENDER. Just a minute. I may have misunderstood you. You said 130 were settled by the board.

Mr. BUSTARD. Yes, sir; that is right.

Senator ELLENDER. Of that number, there were some who got other employment?

Mr. BUSTARD. That is right.

Senator ELLENDER. How many, do you know?

Mr. BUSTARD. I do not know offhand, but when we say it was settled satisfactorily, it means a satisfactory adjustment was made by the employer, an agreement to reinterview, and if the person met the qualifications, either to rehire or put to work.

Now, we have had some complaints where in the nature of our conciliation—and we cannot help it, it has taken a month or 2 months or 3 months to reach that point—by that time the person has secured another job.

But what we have found out in those cases, the important thing is not the particular individual involved, but that that employer as a result of that complaint has changed his personnel policies and modified them. That is why when you talk about complaints it does not mean much to talk about numbers of complaints. One of these, one of the 130 affected a company that employs 30,000 people in the State of New Jersey.

That one complaint has led to at least 1,000 new job opportunities for members of minority groups. One of the biggest outfits in the State of New Jersey with about 30,000 employees was involved in one of these complaints. That happens to be one that was satisfactorily settled, the girl involved, a Jewish girl, did not take the job when it was offered to her, but as a result of that complaint and our working with the executive vice president in charge of personnel, the personnel practices from the top of the company down were changed in every section of the State of New Jersey with the result that that particular outfit has an entirely different employment policy, and all people in New Jersey, if they are qualified, now get a job with that organization.

Senator ELLENDER. Was this the only complaint as against that employer?

Mr. BUSTARD. That was the first one we had. We had two others against that concern that came from sectional officers which were very easy to adjust because we had top management already on record, all

ready with directives and bulletins having been issued so that the regional office manager—it was merely a question of educating him.

Senator ELLENDER. Do you know whether or not this concern employed colored before the law went into effect?

Mr. BUSTARD. In a very few limited capacities and in certain capacities they hired no Jewish people at all because of the religious holiday angle. It was company policy, because of Yom Kippur and Rosh Hashana and so on.

Senator DONNELL. Proceed, Mr. Bustard.

Mr. BUSTARD. I think I mentioned complaints have been made against labor unions, employers, and individuals, and it was brought out in my testimony that most of the discrimination encountered was against Negroes, as compared with any other group.

I would like to get back to this idea of the employer. One of the things we did at the beginning was in the nature of good will. We had a conference with several of the largest employers in the State at one of our educational meetings and, strange as it seems, these large employers took this very same position that I mentioned a few moments ago and I think I can even mention one of the names without violation of any confidence. He happens to be a Democrat: Governor Edison, former Governor of our State, and president of Edison Industries. He stated this in a public meeting so I do not think I am violating confidence. He said, I am an employer. I am an employer of thousands of people. He said, I cannot see with a law like this that it hurts the employer. I see a law of this kind as a benefit to the employer because as a large employer I am interested in production and when I am interested in production I should have the right to employ those people who can produce. This law gives me the right to employ those without worrying about the petty prejudices or whims concerning the colored employee.

Senator DONNELL. Would he not have the right to employ people that can produce even though there is no such law as that? He has the right to make his own selections, does he not?

Mr. BUSTARD. He would have the right to make selections but there we would run into the prejudices that exist whereby we could have sitdowns—not that they would happen too often; we could have a sitdown, we could have a strike really with no reprisals, with no curb on that strike unless there were some teeth in this law. For instance someone might start a sitdown strike, as was threatened in this factory in Jersey City. When the employer made the complaint to us, we moved in and we prevented the sitdown strike. We did some educational work with those employees and solved the situation because we had some power. We did not use the power but they knew we had the power.

Senator ELLENDER. How did you stop the sitdown strike?

Mr. BUSTARD. We called those fellows in and found out what their fears were and why they were objecting to working with the colored man and we analyzed their fears for them and over the conference table we solved it and at the same time we made them know that they would be guilty of aiding, abetting, and inciting an unemployment practice.

Senator DONNELL. In other words, you told them there was a provision that made them liable in penalty if they did so, is that right?

Mr. BUSTARD. Yes, sir, and in addition to that we got very fine cooperation from one of the unions which had already gone on record, from the key officials in the union; we asked those people to come in and help work on the case; and with their cooperation and with our cooperation the thing worked itself out.

Senator ELLENDER. All of the cases you have had so far in New Jersey have been settled on a voluntary basis more or less, have they not?

Mr. BUSTARD. That is right.

Senator ELLENDER. You have not had to go to court?

Mr. BUSTARD. We have not had to hold a hearing.

Senator ELLENDER. Are you in any way disappointed in the small number of cases that have been brought to the attention of the Commission in the last 2 years—812, out of which only 180 have been settled?

Mr. BUSTARD. Not disappointed. I think there are a couple of reasons for that. I think you yourself mentioned this morning that the employment situation is very good.

Senator ELLENDER. Yes.

Mr. BUSTARD. It is good throughout New Jersey; I think that has some bearing on it. I think the general acceptance of the law by the majority of the concerns is good. You see we are proceeding—sometimes we proceed on the theory that the majority of the people are lawbreakers while the opposite is true; the majority of Americans are law abiding, and we know this from one of the things that has happened to us.

In the voluntary submission of application blanks to us for our approval—that is one of the things—we did not issue a directive in New Jersey as I think they did in New York asking them to send in application blanks for inspection. We advertised the fact pretty well and through personnel meetings and chambers of commerce meetings and others we told them about this application blank with the result that we have had hundreds of requests from employers in New Jersey asking us voluntarily to examine their application blanks, and stating that they are revising them, and they are revising them in line with our new law to make the application blank fit the law.

The average big company wants to be law abiding and as a result they have the personnel man draw up and revise their application blanks, and send them in to us; that is still happening daily in New Jersey. That has been done with no pressure from us but on a sort of voluntary basis.

Senator DONNELL. Pardon me, Mr. Bustard, if I may interrupt you.

Speaking of voluntary compliance, I notice here on page 12 of your statement that you have the two sentences. [Reading]:

The educational value of the law, in the setting forth of a code of ethics expected by the people of the State, is the most potent feature by which the majority of employers and labor unions are guided in their operations. The threat of legal reprisal was essential in arousing consciousness in the many.

Then you proceed, "Actual use of this legal instrument may be required for the few."

Then you say, "Experience thus far seems to indicate that litigation will be necessary in but very rare instances."

What do you mean by "threat of legal reprisal was essential in arousing consciousness in the many"? What is the meaning of that? What do you do by way of making that threat?

Mr. BUSTARD. Perhaps that should be interpreted. I suppose a better way to interpret that is: "Employers of many people." All, practically all, large corporations and large companies—I suppose not only in New Jersey but all over the country—have counsel, lawyers who follow legal developments as they develop in the State legislatures. It is their job to inform top management on labor legislation or social legislation, on workmen's compensation, and all the other legislation that is passed.

We found that in most of the companies that had their own counsel, they knew all about the law long before it went into operation. They knew about the law when it passed the legislature.

Senator DONNELL. What do you mean by saying it was reprisal in the consciousness of many? What is the meaning of that?

Mr. BUSTARD. No threat was made by our division.

Senator DONNELL. Who made it?

Mr. BUSTARD. The threat was made by the legislature when it passed the law so that it became the duty of a company lawyer to inform his board of directors that here is a new law being passed in New Jersey and we should line up company policy in keeping with the new law; we should revise or examine or reexamine our personnel practices because as the result—I was going to get into this—as a result of this law, with no pressure on our part, some of the larger corporations in the State voluntarily modified their personnel practices.

For instance, to name two—because it is not confidential—the Prudential Insurance Co., one of the largest outfits in the world, is located on Broad Street in Newark, N. J.

The Prudential Insurance Co. never hired colored workers in their main downtown office in Newark. We never have had a case; but they have had a practice of going around to high schools in that part of New Jersey and hiring 18-year-old girls as they come out of high-school classes. For years, as they went around, they always specified that no colored girl should be recommended to them by the high-school guidance counselors.

"We want you to send us all the qualified girls that you have, period." That is what they say now, with no specifications, with the result that this past year Prudential in its Broad Street office has colored girls working, qualified colored girls working in clerical work where they were never given an opportunity to work before.

The same experience, the same thing was true, to mention another big company in New Jersey—the Mutual Benefit Life Insurance Co.—also has its headquarters in Newark. I understand their experience has been so successful that this year we may have to curb them. They may specify that they want more colored or just colored.

Senator DONNELL. That would violate the law, too, would it not?

Mr. BUSTARD. That would violate the law if they specified they wanted only colored girls. But those companies are very big companies. They have sound personnel practices and they have both joined up.

Senator DONNELL. Are you citing those two companies as illustrative of the extent to which I referred, the threat of legal reprisal?

Are you citing those two companies as illustrative of what you mean in the sentence, "The threat of legal reprisal was essential in arousing consciousness in the many?"

Mr. BUSTARD. It may not be fair to use the name of those two companies because it also might have been from the sense of justice in this law that made them do that, as well as the threat of legal reprisal in the particular instance of those companies. I do not want to be unfair to those two companies and say that it was only the threat of legal reprisal, but I do know that their lawyers conferred, not only in those two companies but in many others, with their policy-making group, their boards of directors, and their personnel directors, and so on, and I know that is the reason why we are getting so many of these application blanks voluntarily, because their lawyers are advising them to have the application blank checked and have their application blank conform with the law.

Senator ELLENDER. Were any direct threats made to employers along the lines suggested in the language quoted by Senator Donnell?

Mr. BUSTARD. No; we have never threatened any employer. We do not operate that way.

I think if we operated that way we would be violating the whole spirit of this law which is based on eventual acceptance of the idea that all people in this country should have a crack at a job if they are qualified for it.

Senator ELLENDER. Did you not mention earlier in your statement about the fact that, while you sat down with these people and through this process of explanation and conciliation, and so forth, settled the matters, nevertheless, you let them know that the law was there and had to be obeyed? Did you not say that in substance earlier today?

Mr. BUSTARD. Yes, sir; at least, in some cases. That is necessary in some cases.

Senator DONNELL. And in answer to Senator Ellender you have used this threat in the law in your negotiations, have you not?

Mr. BUSTARD. Occasionally; yes, sir.

Senator DONNELL. That is what he asked.

Mr. BUSTARD. Naturally, everybody reacts differently. I mean all people do not come in breathing sweetness and light.

Some people come in perhaps an antagonistic attitude, although we try not to take such an attitude ourselves, but firmly and kindly tell them what their responsibilities are and what the provisions of the law are. I mention that very often in talking with personnel managers.

Without any particular case being discussed, it is only fair to them to let them know the provisions of the law. We feel we have an obligation in this law to protect the employers as well as the employees. We have tried to be objective in this thing. We try to think that we are working for the State of New Jersey and the State of New Jersey is composed of a lot of people other than employees. It is composed of employers as well as employees.

Senator DONNELL. Mr. Bustard, I think you have a perfect right to mention the existence of the law to these people and tell them of the penalties in the statute, and I observe that you state that you combine both firmness and kindness, and think that you are justified in using firmness; but at the same time I think it is equally clear that if you tell them about the statute and tell them about the law, that

Senator Ellender's question was quite appropriate in developing whether you do inform people of the provision of the law which makes it obligatory that this procedure be followed; and you do that, do you not?

Mr. BUSTARD. We do not—

Senator DONNELL. You do not conceal the fact or just make it a pleasant conversation?

Mr. BUSTARD. We do not pussyfoot about the thing; but we do, to be perfectly frank with you—we do say, and I have said a good many times in public—that I do not want to use the club that is in this law.

Senator DONNELL. You mention there is a club but you do not want to use it?

Mr. BUSTARD. And I am hoping that we can continue and go and settle our cases without using the club.

Senator DONNELL. You mention that club matter in your talks?

Mr. BUSTARD. Everybody—practically every time I talk to a group of employers, we are proud of the fact that we have not had to use the club in New Jersey.

Senator DONNELL. You always mention to them there is a club, but you are very proud you do not have to use it. But you mention the club so they can understand the word "club" in practically every address you make in the State of New Jersey.

Mr. BUSTARD. That is right.

Senator DONNELL. How often do you speak publicly, Mr. Bustard?

Mr. BUSTARD. During the winter months sometimes it runs from two to five times a week.

Senator DONNELL. How do you think addresses like that would go down in Senator Ellender's country, if you went out to speak two to five times a week there—that you are proud you do not have to use a club?

Mr. BUSTARD. I suppose there again, as was said this morning by Mr. Reuther, your approach would be entirely different.

Senator DONNELL. You would use quite a different approach down in his section?

Mr. BUSTARD. That is right; which leads me to point out to you that we do have a different section in New Jersey, getting back to some of the things that Senator Smith was interested in.

New Jersey is not a homogeneous State. By that I mean that you might draw a line somewhere south of Trenton, N. J., across to the Atlantic Ocean, and you have a pattern of segregation in many of those what we call south Jersey counties that is somewhat similar to some of the Southern States.

We have 64 segregated elementary school systems as a carry-over from some traditional reasons in that part of the State. Children go to segregated elementary schools and then, of course, go to a mixed high school. We have not a segregated high school in the State, but we do have some segregated elementary schools, with results that in some of those communities—and some of them are suburbs of Philadelphia—in some of those communities you have a much stronger pattern of discrimination than you do in the so-called communities in the northern part of the State.

For instance, as part of our educational work through these regional councils that Mr. Turner mentioned, we have been making some employment surveys as part of our educational program.

We made one in a place called Burlington County, which is south of this line.

In Burlington County we surveyed about 54 of the major industries to find out their practices and to help us carry on our educational program with employers.

We found, I think in 29 textile plants, that 14 of them had a very wide-open policy on employment, on their employment practices. We found 14 others that had never employed a Negro and did not intend to employ a Negro as far as they were concerned.

Now that was in the very same county, in the same industry, and those things happen in that section of New Jersey where you have the pattern of segregation.

Senator ELLENDER. What percentage of New Jersey population occupies that area in which you say segregation is practiced in?

Mr. BUSTARD. Less than one-fourth.

Senator ELLENDER. Of that one-fourth of the entire population, how many living in that section are colored?

Mr. BUSTARD. In some of those areas the colored population would run perhaps close to 25 percent.

Senator ELLENDER. I see.

Well, now, is this segregation in schools, elementary schools, legal? Is it practiced by law or by custom?

Mr. BUSTARD. No; by custom; it is really illegal in New Jersey.

Senator ELLENDER. I see. What would be the attitude of your committee if a Negro school teacher applied to teach in one of the white schools in that segregated area?

Mr. BUSTARD. That is the very problem we are facing in breaking up those segregated schools.

Senator ELLENDER. Doing what?

Mr. BUSTARD. Breaking up those segregated schools.

Senator ELLENDER. You think under this law you have a right to do that?

Mr. BUSTARD. We do not think under this law we have the right, but under this law we have the right to study and make recommendations to the State legislature. Our State council has that right; our State council of nonsalaried people.

Senator ELLENDER. Is it your position that under the law as it is now written you could not force a school board in this segregated area to employ a colored teacher in a white school if her qualifications were the same?

Mr. BUSTARD. Let me say this: That early in our law we had an opinion from the attorney general of the State stating that our law applied to governmental agencies, at the State, county, and local level, as well as to private industry.

Therefore, if a colored school teacher were qualified, having the proper qualifications, we would insist on her right to employment.

Senator ELLENDER. Have you had any such cases in that area?

Mr. BUSTARD. We have not. We have the pattern, however, in the northern part of our State, in our cities, that we have colored teachers teaching mixed classes. In fact, in one of the most exclusive suburbs in America, Montclair, N. J., the Montclair Board of Education, in keeping with the spirit of this law and voluntary and without pressure, went out and found some well-qualified colored teachers and

put them in the town of Montclair and put them teaching mixed classes, and there has been no revolution in Montclair.

Senator ELLENDER. What would occur, in your opinion, if you should attempt to change the situation in this area which contains one-fourth of the New Jersey citizenship?

Mr. BUSTARD. The only precedent we have is that two of those school systems last September took the reins in their own hands and broke up—one in Asbury Park, N. J., broke up a segregated school, and they had had a segregated school there for years. They broke up the segregated schools, intermixed the classes, and intermixed the teachers, and there was a flurry for about a week or 10 days; but the Asbury Park Board of Education took a firm stand, and the flurry died out.

Senator ELLENDER. I do not understand what happened there.

Mr. BUSTARD. We had a school there that had been a carry-over from tradition. They had two schools in one building. They had a white principal, and they had a colored principal, and they had a line down the yard. The white children played on this side of the line, and the colored children played on the other side of the line.

Senator DONNELL. Colored children in one building?

Mr. BUSTARD. They were on this side of the building; the white children were on that side.

Senator ELLENDER. Both in the same building?

Mr. BUSTARD. Both in the same building but all separate classes.

This year the lines were removed, and the children have been mixed up, and the children—

Senator ELLENDER. What if you tried to do that in a school that is exclusively white and staffed by white teachers?

Mr. BUSTARD. The city of Trenton had that experience.

Senator ELLENDER. I am talking about that particular section.

Mr. BUSTARD. All right; the city of Trenton—

Senator ELLENDER. Border line.

Mr. BUSTARD. The question is: Where does this imaginary line run from? Sometimes they even say the imaginary line runs from Senator Smith's home town of Princeton across to the ocean. But Trenton is a few miles below Princeton. Trenton is a city where they have a segregated junior high school there until 2 years ago. They had a completely segregated junior high school. All of the colored junior high school units were drawn from all over the city and sent to this segregated junior high school for 3 years, with a complete colored staff. No other junior high school of the four or five other junior high schools in the city had colored teachers. As a result of this, the junior high school was broken up.

Senator ELLENDER. By whom?

Mr. BUSTARD. Broken up by the Trenton Board of Education.

Senator ELLENDER. Who brought the suit?

Mr. BUSTARD. Under the New Jersey school law, and aggrieved parents brought the suit.

Senator ELLENDER. Colored, I suppose?

Mr. BUSTARD. Yes, sir. The Supreme Court decided in favor of them and ordered the Trenton board to change the policy.

Senator ELLENDER. It was not done voluntarily?

Mr. BUSTARD. Not in Trenton. In Asbury Park it was done voluntarily, but in Trenton it was done as a result of the Court suit. But

the important thing, Senator, is that after it was done, after the teachers were dispersed into the four or five junior high schools in the city of Trenton that had no colored teachers, those situations are working out very well today.

Senator ELLENDER. We have to follow the law, of course, and it was enforced.

Mr. BUSTARD. There has been no racial tension, there have been no incidents, no uprisings on the part of the people or anything of that sort.

Senator ELLENDER. What is the population of New Jersey, do you know?

Mr. BUSTARD. About four and a half million.

Senator ELLENDER. What percentage are colored?

Mr. BUSTARD. Approximately 10 percent.

Senator DONNELL. Gentlemen, it is almost 4 o'clock, and the Senate is going to vote at 4 o'clock on a very important matter, and I think we are going to have to recess.

Now, Mr. Bustard, we would like to hear the rest of your testimony, and it is my information that we are going to proceed in the Senate on at least one matter of very great importance. We will be back here just as soon as we can from the floor, but we cannot set the exact minute. If you will be kind enough to wait for us, we will appreciate it.

Now, go ahead, Mr. Bustard, and we will stay here until a minute or so before 4.

Senator SMITH. I would like to ask one question.

Mr. Bustard, I would like to have you file with the committee a statement giving the names of the members of your council here. I know them personally, but I would like to have a statement of their names and what their background is, for example. I know that Dr. Clothier, the chairman, is a very outstanding citizen of our State and president of Rutgers University. I would like to just get into the record the high quality of the members of our commission that has been studying this thing and have been assisting you voluntarily, I understand, in carrying out and developing the policies of this whole movement.

Mr. BUSTARD. I can give you those orally right now. Dr. Robert C. Clothier, president of Rutgers University; Mr. James Kerney, owner and editor of the Trenton Times newspaper; Mr. Louis Marcianite, president of the American Federation of Labor; Miss Margaret Warner, social worker, Burlington, N. J.; Mr. Herbert Tate, lawyer, Newark; Mr. Harry Bell, executive, Western Electric Co., Kearny, N. J.; Mr. Jacob Stern, automobile industry, Paterson, N. J.

Senator SMITH. Thank you.

Senator ELLENDER. The 450,000 colored people living in New Jersey represent 10 percent of the four and a half million. Do they live mostly in large cities in your State or are they scattered in the country?

Mr. BUSTARD. I suppose the greatest concentration is in Newark with about 40,000 living in the city of Newark.

Senator ELLENDER. Only 40,000 out of the 450,000?

Mr. BUSTARD. Forty thousand live in the city of Newark.

Senator ELLENDER. I see. Where do the others live?

Mr. BUSTARD. Well, a good percentage of them live down in the south Jersey rural counties and all of our industrial cities; in my

own county, which is adjacent to Union County, there are 8 or 10 communities, such as Rahway, Linden, Elizabeth, Roselle——

Senator ELLENDER. Union County?

Mr. BUSTARD. They live all through there in many towns in the county.

Senator ELLENDER. I see.

Now, to your knowledge no effort has been made so far to do away with segregation in this area that you spoke of before, where the whites are taught by the whites and the blacks are taught by the blacks and where you have separate schools, entirely separate?

Mr. BUSTARD. Only in these three communities: Trenton, Asbury Park, and Neptune Township.

Senator ELLENDER. Mr. Bustard, are you familiar with the manner and method in which the FEPC was administered under the Presidential order?

Mr. BUSTARD. Not too familiar.

Senator ELLENDER. You heard me say here this morning on several occasions that the FEPC was administered not only to help the colored and the others economically, but also in an effort to break segregation rules and laws wherever they existed?

Mr. BUSTARD. Yes.

Senator DONNELL. Senator Ellender, would you pardon me. It is 4 o'clock and I think we had better recess until as near 4:15 as we can.

(A recess was taken in the hearing at this point.)

Senator DONNELL. Mr. Bustard, will you proceed, please, with your testimony.

Mr. BUSTARD. I think the Senator had asked me a question.

Senator DONNELL. Mr. Reporter, will you please read the question?

(The reporter read the pending question.)

Mr. BUSTARD. I suppose I answered, "Yes," that I didn't say that this morning.

Senator ELLENDER. Would you care to express an opinion as to whether or not you thought that should have been done?

Mr. BUSTARD. That is a rather hard question to answer when you tie it into whether the FEPC should have done it. If you asked me the question as to whether it should be done regardless of the FEPC, I do not want to confuse the issue——

Senator ELLENDER. I am going to ask you that a little later, but at the moment——

Mr. BUSTARD. If the FEPC law gave them power to do it or should involve—the FEPC did not give them power, should they have stayed away from it——

Senator ELLENDER. Now the FEPC was organized—was created for the purpose of giving to the colored and to the non-Christian and others their fair chance to participate in our economy and get a just share of it.

Now, as I pointed out, in Maryland the FEPC issued an order whereby an employer was compelled to tear down a wall between toilets that was marked for colored and for whites so as to force all whites and colored to use the same toilets. Do you think that was a fair interpretation of the FEPC as it was provided for under the Executive order?

Mr. BUSTARD. I do not know enough about the FEPC to answer your question intelligently; but under the New Jersey law we would

not; we do not believe that there should be segregated toilets, and, furthermore——

Senator ELLENDER. Is that because of the law in New Jersey?

Mr. BUSTARD. And we would attempt to——

Senator ELLENDER. I say that is because of the law in New Jersey?

Mr. BUSTARD. That is right.

Senator ELLENDER. Suppose you were operating in a State where there was a State law providing for segregation? What then? What would be your view then?

Mr. BUSTARD. I suppose those conflicts would have to be worked out, but eventually, certainly, the segregated toilets should be eliminated.

Senator ELLENDER. In other words, you do not believe in segregation of any kind as between whites and colored?

Mr. BUSTARD. No.

Senator ELLENDER. They should all associate together, go to the same theaters, go to the same swimming pools and all places of amusement, even go to the same schools without restriction?

Mr. BUSTARD. That is right.

Senator ELLENDER. And you would hold that to be true even in States where the proportion of population, instead of being 10 percent, as in New Jersey, is 50-50?

Mr. BUSTARD. Well, Senator, the best way to answer that question is that in certain sections in New Jersey, such as the third ward of Newark, we have schools that have 80 percent colored and 20 percent white, and there is an instance where it is as high as 80 percent colored and 20 percent white. The children live together and play together and if it can work in an area of that kind I do not know why it cannot work in other parts of the United States.

Senator ELLENDER. Well, of course, you have there a little area, that you could almost jump across; but the problem is different when you take a State wherein the entire population is 50 percent colored and the other 50 percent white, as in some counties in Mississippi the proportion is three colored to one white.

Now, would you say that you would not grant segregation in those States, if the State desired it?

Mr. BUSTARD. The third ward in Newark, to get back there——

Senator DONNELL. Will you not answer the Senator's question? Will you please answer the question? He has asked you a question that can be answered by "Yes" or "No" and if you desire to explain the answer you can, but the question is required to be answered by "Yes" or "No."

Mr. BUSTARD. I would like to say that I do not believe in segregation, period.

Senator ELLENDER. In other words, you do not think that there should be any segregation under those circumstances?

Mr. BUSTARD. No.

Senator ELLENDER. Well now, let me ask you this, and I have asked it on several occasions of other witnesses: Suppose after the Civil War, instead of having these segregation laws and these rules and regulations whereby the white and colored people went their separate way as far as schools were concerned and other different phases, such as places of amusement and things of that kind, do you not think that the chances of intermarriage between colored and white would have

been probable if the children of the whites and blacks had lived together and associated together since that time up to now?

Mr. BUSTARD. Not necessarily.

Senator ELLENDER. Do you think that it would not have led to marriage at all?

Mr. BUSTARD. You said that I could qualify my answer. I want to get back to the third ward in Newark, where there are 40,000 people, 30,000 are colored and 10,000 white. There is no intermarriage up there to my knowledge.

Senator ELLENDER. Does the New Jersey law permit marriage between whites and blacks?

Mr. BUSTARD. I assume that it does. I assume that there is no preventing it in New Jersey.

Senator ELLENDER. There are 19 States in the Union that permit the marriage and the others prohibit it. Are you against it?

Mr. BUSTARD. Senator, you are getting into something that is a personal choice and it takes two people to make a bargain, and it seems to me that this red herring of intermarriage that has often gone across the sky very often is sort of a reflection on the white American males. It seems to me that people who like to draw this herring are evidently afraid that the white American male might not be as attractive to the white American female as the colored male.

Senator ELLENDER. And what else, according to your personal judgment?

Mr. BUSTARD. I think that the choice that has gone on for centuries, the choice of the two people making a bargain, and two people entering into a contract is going to continue regardless of these other conditions.

Senator ELLENDER. Such wise choice did not prevail, however, in South America.

In Brazil, for instance, most of the Europeans who came there, when the country was discovered, intermarried with the Indians, intermarried with the colored slaves who had been brought there, and as a result produced a mongrel race. I believe that it is because that the South as a whole has practiced segregation—

Mr. BUSTARD. You remember your figures, sir, if you will, you will remember that in Brazil at that time there were about five males to every female.

Senator ELLENDER. What do you mean, five males to every female?

Mr. BUSTARD. There were five males to every female and the people who were coming from Europe were mostly males, they were not bringing their own females with them.

Senator ELLENDER. I understand that.

Mr. BUSTARD. They took females who were there just as the people did in California during the gold rush.

Senator ELLENDER. Certainly they took colored people who were there and they took the Indians who were there and as a result of that intermarriage and mixture, as it were, Brazil created a mongrel race. Stagnation has followed and the country has not advanced industrially as has ours. It is still in the dark. Its resources are still undeveloped.

Mr. BUSTARD. I think, if you will pardon me, your line is a little irrelevant as far as employment opportunities are concerned.

Senator ELLENDER. Now it may be, sir, that this law does not affect this significant implication at the moment. You may be right. But

this bill, it is a step in that direction to bring about social equality between the races. That is all it is, and I contend that social equality will lead to marriage and everything else; maybe not in the next 40 years, but in the next 100 or so years we will have a mongrel race in this country and with that adulteration, progress would be stymied.

Mr. BUSTARD. Senator, could I say this: That the only evidence that we have on this thing that you are talking about comes out of some of these housing projects in the North where they have integrated housing projects. There is one in the city of Elizabeth and there are some four or five hundred families involved. There happens to be a man on my staff who was assistant housing manager there, a Negro. I asked him if in his 7 or 8 years in that housing project as assistant manager he had ever, because of the social equality that goes on there and so on, heard of one case of intermarriage. Now, there are four or five hundred families involved next door to each other and so on, and in 7 or 8 years of investigation there has not been one case. I pursued that question into Harlem and so on to find out if there was any evidence and there is no evidence. I still think it is a matter of personal choice as to who you are going to marry and it takes two people to make a bargain.

Senator ELLENDER. In that section it is because of the small number of colored that you have in contrast to whites. You are familiar, I suppose, with the condition in England as well as in other parts of the world during World War I and World War II where there were quite a few colored babies born to white women. You must be familiar with that report. And it would not take long to have a mixed race in the country that would result in the same kind of civilization that you now have in Egypt.

Mr. BUSTARD. Well, I will not go into any more with you. I was going to say something, but perhaps I had better not.

Senator ELLENDER. What is it?

Mr. BUSTARD. Isn't that a good old southern custom?

Senator ELLENDER. What?

Mr. BUSTARD. A lot of mixed babies born down South.

Senator ELLENDER. No; I do not think miscegenation is practiced to any extent, certainly not as much as is reported.

Mr. BUSTARD. Illegitimate babies.

Senator ELLENDER. That is the story they tell up here, but producing half-breeds is practiced in the North more than in the South, according to population, I can tell you that.

Mr. BUSTARD. Well, we do not know.

Senator DONNELL. Proceed with your testimony, Mr. Bustard.

Mr. BUSTARD. Mr. Chairman, I think I was finished. I do not know that we have got into this other phase of this thing, but I would like to point out one thing.

Senator DONNELL. Pardon me. Did you intend to interrogate the witness further?

Senator ELLENDER. I was through.

Senator DONNELL. Proceed.

Mr. BUSTARD. I think it is important to bring out this point that we are not kidding ourselves in New Jersey that you can legislate against prejudice, that you can legislate prejudice, which is a state of mind. But we do think that you can, and our experience to date has shown, I believe, that we can legislate against discrimination which is an act.

Discrimination is not a state of mind; discrimination is an act that involves the right of others, and it can be controlled and I would like to go back and bring up this prohibition idea, that prohibition itself was like a prejudice, an item of personal choice and when prohibition failed and was repealed, and drinking was allowed, we did not repeal the drunk and disorderly laws that are in existence all over the country; neither did we repeal the drunken driving laws that are in existence because they are being drunk and disorderly and drunken driving are acts that can be controlled. I think that there is a comparison that should be pointed out.

Prejudice—we claim in New Jersey—if the people want to continue to be prejudiced, that is their personal privilege, we cannot help it. We feel sorry, it may be, about it. But we cannot help it whether a person has his own prejudices on the basis of color or anything like that.

He is entitled to that, but he is not entitled to let those prejudices affect, through discrimination, the rights of other citizens any more than the person who wants to drink or leave it alone. The person who drinks has not the right to go along driving his car while drunk or being drunk and disorderly and disturb the rights of other citizens. I think there is a comparison that is sometimes lost sight of when we begin to talk about prohibition.

I might say that the passage of a national act, as far as New Jersey is concerned, will help. It will help as far as national unions are concerned; it will help as far as interstate corporations are concerned; and I think that the New Jersey experience will be of value to the Nation and certainly any experience we have had will be made available to any administrator who might administer any national act, and I think most important of all—I think the Congress of the United States should think of this in terms of an opportunity to all citizens to live in the greatest country in the world and realize to the fullest extent of their capabilities and their opportunities for full citizenship.

Senator DONNELL. Are there any further questions, Senator Ellender, Senator Smith?

Senator SMITH. I just wanted to ask you one question. You have already expressed yourself. I think, with regard to the compulsory features of the act. It is true, as I understand it, that you have not had to resort to the courts at all. In fact you have had very few formal complaints, relatively, concerning the whole picture?

Mr. BUSTARD. That is right.

Senator SMITH. You have done most of the things on the persuasive and conciliatory basis?

Mr. BUSTARD. That is right.

Senator SMITH. Do you not think that in the field of prejudice if we get a better educational process across and get people together so they understand each other, we can even break down the prejudice by degrees?

Mr. BUSTARD. We can. That is an educational process in itself. I mean that is an educational process wholly apart from any legal compulsion so far as breaking down prejudice is concerned. More knowledge here, getting to know one another better, in fact this very act helps break it down and when people get to work together as we have in some of our corporations in New Jersey where you take your

Bell Laboratories, which is up in Summit, N. J., where they have Ph. D.'s in chemistry working alongside of Ph. D.'s in chemistry who happen to belong to a different race—the experiences of that kind are helping those men who come in contact with the well-qualified, high-grade people. It is not making evangelists out of them, but they in turn are spreading the doctrine of good will among all their acquaintances and so on. That thing is constantly at work. It is an educational process that is sort of an indirect outgrowth of the fact that when people know one another and appreciate one another's capabilities—because most Americans are fair-minded—the thing is that some of their traditional thoughts have not been challenged enough. Some of their patterns of thinking have gone up through the years based on misconceptions, based on lack of knowledge, and other things, and when people really get to know one another, appreciate what the other fellow has on the ball, you find a good many of those prejudices breaking down. That is an educational process.

Senator SMITH. That is my experience through life and I can say that when I do get to like a person it is not influenced by reason of race, creed, or color. That is so important in my opinion, that I have simply raised this question about whether we must have compulsion at this time to make it work, whether we would not be justified in areas where there is no prejudice, as Senator Ellender has pointed out, where the ratio of population is different, whether we would not make progress if we gave them opportunity to try it out on an educational basis, if they so decided—that was the only reason for raising the point which has caused so much of the furor.

As important as the subject is, I would rather see it approached in the spirit of fellowship and understanding among human beings than by the force of law. The only reason I raised the prohibition analogy was because it is my judgment that where you have a strong public opinion against a certain type of law in an area, you cannot enforce it because the prejudices are cleared up and just because the people are told they must do so—without the “must” they might be much more willing to do so. That is the reason I raised the question. I think it is a very profound issue of importance.

The merits of the bill I thoroughly believe and am a party to and want to see brought about, but also we might consider how best to bring it about to develop the spirit of unity in the United States of America which we need so much.

I am just fearful, in exploring this, that we may be going too far too soon in trying to say “must” to all our people when we have not thoroughly explored the educational processes. That is the point of my raising the suggestion.

Mr. BUSTARD. The only way I can answer that intelligently is to refer you back to our own State.

Senator SMITH. I realize that.

Mr. BUSTARD. Where we did not make exceptions to certain countries in our own State where these traditional patterns are pretty deep, and I am afraid if we do not have the thing apply universally, it will be the same old question of “Let George do it.”

Senator SMITH. I want the whole thing to apply universally. I realize that it would not apply in one State as it might in another but I raise the question where we get to that final point whether we would

not be wiser to take the trial and error method and see if the southern people who have this problem more than we do because of larger population there, whether they cannot be challenged to go ahead and solve this thing without the compulsion.

Far be it from me to have any talk about secession or any idea like that. I want cooperation and not talk about secession or any talk about force if we can possibly accomplish these objectives by mutual understanding and cooperation, and many of these people down there would like to solve the problem by the other route.

But I am sort of afraid you may raise barriers right off the beginning, if you say this must be done.

Mr. BUSTARD. I do not want to get back into this technical thing that the Senator raised this morning, but I think——

Senator DONNELL. What argument is that that was technical?

Mr. BUSTARD. Not exactly technical—by force.

Senator DONNELL. I would say there is certainly nothing technical about that.

Mr. BUSTARD. I am not a lawyer; maybe it is not technical. But I think we have got to have a law apply the same in all States and going back to what one of the witnesses from New York said, the secret of the law is the administration of the law and certainly in the administration of the law we have not a bureaucratic approach to the thing. We have got to realize that the thing must be handled on a good-will basis, that each complaint that you settle without any compulsion is a greater victory settled on a good-will level; but without that ability to have that compulsion in the law and have it apply to all States, I am afraid that perhaps in some of the areas where you need it most, nothing would happen.

Senator SMITH. I have no further questions.

Senator IVES. Well, I think that Mr. Bustard has pretty well covered this. I am most grateful for his presentation.

I gather that you take more or less the position taken by one of the members of the New York Commission when the statement was made that this can be administered in such a way that we do not have exactly the same type of approach in every section of the country at the same time simultaneously.

In other words, that it is possible to carry out the intent and purpose of this act by what I might term delayed action without in any way violating the spirit or the purpose of the act.

I think that is the only way you can go at it, but that does not mean, as I understand it, any lack of proper enforcement.

Mr. BUSTARD. That is exactly right and I think I said this morning we are trying to be objective and while we may have disappointed some pressure groups, we have not pursued the policy of going and beating the bushes in order to drum up a big list of complaints. We have not gone out purposely and tried to get complaints. We have used our energies, however, in getting together groups of people, groups of employers, labor unions, minority group members and trying to explain and get this whole philosophy, and as Senator Smith said before, help to break down some of the prejudices behind this thing and get the people to accept it on the good, sound basis and a fair, American basis, that is involved in the whole thing.

Senator SMITH. Mr. Chairman, I want to thank Mr. Bustard for his testimony and want to congratulate him on the spirit in which he has administered this law.

Senator DONNELL. Thank you very much, Mr. Bustard, for your comment.

Now, Mr. Stephens.

(Mr. Bustard submitted the following brief:)

A BRIEF PRESENTING THE ADMINISTRATIVE EXPERIENCES OF THE DIVISION AGAINST DISCRIMINATION, NEW JERSEY DEPARTMENT OF EDUCATION; BY JOSEPH L. BUSTARD, ASSISTANT COMMISSIONER OF EDUCATION, JUNE 18, 1947

The State of New Jersey shares with her sister State, New York, the experience of conducting an experiment in social progress commonly referred to as fair employment practices legislation on the State level. Created by legislative act in the spring of 1945, 4 weeks after the passage of a similar measure in New York, the division against discrimination began its activities on July 1 of that year as did New York's Commission Against Discrimination.

Details concerning the attitudes of legislators, employers, and the general public are included in addenda to this brief, thus requiring no elaboration except for two important items. Organized labor as represented by the New Jersey Federation of Labor and the New Jersey Council of Industrial Organizations, was solidly in support of the measure. The then Governor, Hon. Walter E. Edge, officially sponsored the bill in the Republican-controlled legislature, in keeping with the platform commitments of his party. It is to be remembered that Ex-Governor Edge has had a long, distinguished career in the services of his State and Nation as twice elected Governor, United States Senator, and Ambassador to France, and his support of legislation of this nature came out of the practical wisdom and vision acquired through his long and varied service, and not from racial, visionary idealism.

COMPLAINT EXPERIENCE

Two arguments frequently offered in opposition to fair employment legislation are (1) that inability to prove that discrimination is practiced will result in no complainants seeking redress under the act or (2) that such a law would be open invitation to incompetents who would unjustly harass employers and labor organizations. Analysis of the experiences of the New Jersey division for a period of nearly 2 years clearly indicates that neither of these situations has occurred.

A total number of 312 complaints of varied nature has been received from the date of inception of the division, July 1, 1945, until May 31, 1947. One hundred and thirty-nine of these complaints were of miscellaneous nature not related to employment, or were not presented in affidavit form as required by law. One hundred and seventy-three verified complaints have been filed during this period of 23 months, or an average of 7.4 per month. It is significant, too, that the monthly intake has experienced no extremes in fluctuation.

Of the 173 complaints received during the period indicated, dismissals or adjustments have been effected in 130 instances for reasons given below:

Reason for closing

	Number of cases	Percent of total		Number of cases	Percent of total
Adjusted satisfactorily	45	34.6	On merit	55	42.3
Withdrawn by complainant	19	13.8			
No jurisdiction	8		Total closings	130	100.0
Insufficient evidence	4	9.3			

Further analysis discloses that 30 of these complaints were not processable either because of subsequent withdrawal by the complainant, because of lack of jurisdiction, or because of insufficient evidence. Of the 100 cases carried to fruition, therefore, it is disclosed that 45 resulted in satisfactory adjustments,

¹ See attached Report of Complaints, May 31, 1947.

meaning in each instance that discrimination was discovered, was provable, and that through interpretation, conciliation, and persuasion the parties charged were caused to provide convincing evidence of a change of policy. In 55 instances investigation satisfied the division that discrimination because of race, creed, color, national origin, or ancestry was not present and that the complainant's charges were not sustainable.

It is important to note that all adjustments to date have been accomplished on the level of conciliation and persuasion, with not one case requiring recourse to public hearing or litigation to secure cooperation or to achieve satisfactory settlement.

Without question, this gratifying picture of accomplishment is due primarily to the wisdom of the New Jersey Legislature in requiring that reasonable time and effort be given to conciliation and interpretation—which are education. In addition to these statutory provisions, the division requires of its workers—

1. Careful, unbiased review of every complaint and searching interview of each complainant, to determine the apparent responsibility of the complainant and admissibility of the charges.
2. Thorough investigation of all aspects and features of the incident or incidents out of which the charges emanate.
3. Similarly careful and unbiased review of the defense offered by the party charged, as well as an evaluation of visible or obtainable evidence of current employment practices.
4. Preliminary attempts to conciliate differences where evidence indicates the operation of a discriminatory policy.
5. Completely confidential treatment of identities of all parties to the complaint, and of all information acquired during the course of investigation and mediation.

SPECIFIC CASE HISTORIES

Case A.—An employer called the division for advice concerning racial policies in his plant having over 500 workers. For years he had employed Negro workers in all skills; but one department of his plant, manned by white workers with exceptional skills, had never had full-time Negro workers. At least four long-time Negro employees were eligible for upgrading to this department but the group of 25 white workers refused to permit the fruition of this promotional plan. Subsequent to this call and visitation to the plant by a staff member, two of the colored workers filed complaints against the workers in the special department, and against the labor union of which all workers were members.

The division entered into full investigation, found that all officers of the union were workers in this exclusive department, and that combined efforts of management and top union leadership had been fruitless in changing their attitudes. A series of individual conferences and interviews led to a round-table conference involving management, union officials, both local and regional, the parties charged in the complaint, and the complainants and their witnesses.

From the discussion it was learned that Negroes were doing casual work in the department in question, dismissing the assumption that racial antipathies were involved. Further, it was disclosed that the recalcitrants feared a repetition of an incident of several years back, when management assigned colored workers to the department without induction training or wage adjustments, and that in the interest of their personal safety in a hazardous operation, and in protection of their wage scale, they forced the removal of the workers. Exposure of the causes of fear led to mutual agreement that any worker to be promoted to this department should receive necessary induction training and commensurate wage adjustments. This plan was instituted, the deserving workers upgraded without further resistance. Case closed on satisfactory adjustment.

Case B.—Three separate complaints were registered against a large New Jersey corporation whose negative policy on race and creed was well known throughout the State. The complainants were carefully interviewed to determine their qualifications for the positions for which the corporation was seeking help. Investigation of complainants' charges apparently justified their belief that racial discrimination was involved in their rejection by the personnel officer, who in turn claimed that the applicants had not been able to meet minimum qualifications demanded by the corporation.

Examination of employment records disclosed that workers selected during the period involved in the complaint were not superior in training or experience to the complainants. Deprived of this defense by the evidence contained in his own rec-

ords, the employer agreed to reinterview the complainants, two of whom were employed at completion of the interview. The third complainant declined to reappear. Since the satisfactory closing of these cases, several more colored workers have been engaged voluntarily by this corporation.

VOLUNTARY COMPLIANCE

New Jersey experiences in the administration of antidiscrimination legislation throws into sharp focus that which often is overlooked in discussions of the efficacy of such controls. Practically all regulatory laws were enacted to restrain the few whose practices interfere with the safety or freedom of the many. Such laws in no way interfere with the majority which already has been guided by moral and ethical principles, or which is willing to or desirous of following such principles if protected from any resulting disadvantages.

With the enactment of the New Jersey law many concerns and corporations broadened their employment policies to include minorities who had been neglected for no other reason than indifference or thoughtlessness. Others who had employed minorities in limited capacities inaugurated programs of upgrading with merit as the sole consideration. Still others appealed to the division to assist in analyzing employee reaction and to advise the concern as to methods of selection and induction of minority workers. It was the natural expression of the majority wishing to live within the law and of others finding that the law enabled and supported them in inflicting that which they had desired but had feared to do.

One of the largest corporations in the State and several large financial institutions, all of whom had excluded workers of one or more minority groups, voluntarily changed their policies and now recruit workers on the basis of qualifications only. In not one single instance, after nearly 2 years of experience under the new policy, has there been any incident that would cause the concerns to question the wisdom of the course pursued.

EDUCATION AS A PANACEA

The most frequently employed argument designed to dispose of legislative approach to the problem of discrimination and disunity in the United States is that "prejudice cannot be eliminated by laws—it will yield only to education." There are two major fallacies in this argument:

1. The statement implies that prejudice and discrimination are synonymous terms; and
2. The statement implies that education as offered in the public schools of the Nation presents a dynamic approach to the problem of inter-group relations.

Prejudice, per se, cannot be eliminated by legislative act or edict. Discrimination, the outward, social manifestation of prejudice, can be corrected by legislation and only by legislation. The individual who develops a prejudice against yellow neckties and refuses to wear one is entitled to his prejudice. When his prejudice develops to the point of obsession that he decides to destroy yellow neckties wherever seen, he becomes a social menace and must be restrained by society, through laws designed to control such acts of invasion.

It is ironic in American life that an individual may be arrested, fined, and jailed for the simple act of tearing off a stranger's necktie, but the same individual, by direct action or by inciting or coercing others, may deprive that same individual and hundreds like him of the right to earn a livelihood, and the law is blind to the significance of this great social injustice.

As to the second fallacy, official records of the State of New Jersey bear out the claim that education as now recognized and accepted has made but little contribution toward the elimination of either prejudice or discrimination.

The annual report of the New Jersey Commissioner of Labor for the year 1903 devotes a large section to analysis of a study¹ conducted by the department. Inquiries directed to 475 industries employing over 128,000 people, and to 300 labor unions in the State, disclosed that only 963 Negro workers were employed in 83 of the plants, and that membership was not available to these workers in the vast majority of unions. In commenting upon the significance of the study and its findings, the commissioner said:

"To inspire an individual or a race with the ambition that leads to high achievement there must be an incentive in the form of prospective rewards and a clear

¹ The Negro in Manufacturing Industries, Report of the Commissioner of Labor, 1903.

course open in the path that leads upward. If these are wanting, hope and ambition die and effort ceases to be directed to anything higher or more far-reaching than obtaining merely the things necessary to sustain life on the lowest animal plane.

"The Negro race forms a very important constituent group in the Nation, and what they are able to make of themselves is a matter of profound importance to all. If they are to advance to the level of the general citizenship of the country it is necessary that they should first of all earn a living; to do this they must have the ability and will to labor effectively, and should receive enough for that labor to live decently and rear their children.

"The question is one of the highest importance not only to the Negro race, but to the entire Nation. If the blacks are incapable of advancement, and cannot take a place in the currents which flow through an industrial and social life of the Nation, if so large an element of our population is destined to remain permanently in the lowest strata of labor without hope that the lot of the son will ever be better than that of the father, we shall be confronted with a problem in social and political economy far more difficult of solution than any that has thus far confronted us since the beginning of our national life.

"If the Negro is capable of advancement it is in the highest degree a matter of interest to both races that no impediment be placed in his way. The working-men should be especially concerned in seeing that he be given a free field and fair play; for the depth to which he may descend or be forced downward must ultimately become the same for the white laborer who competes with him."

In 1931 inquiry was inaugurated by the New Jersey Conference of Social Work in cooperation with the New Jersey Department of Institutions and Agencies.¹ This study was designed to provide authentic data of the social and economic status of this one minority group in New Jersey, the Negro, as an educational venture.

The findings of this intensive study indicate the degree to which employment discrimination, practically unchanged in extent and nature, has affected every phase of living for the minority, as well as coloring the relationships between racial groups in New Jersey communities. The recommendations of the survey committee as they relate specifically to employment were as follows:

"I. EARNING A LIVING

"To employers and labor organizations

"1. We recommend that employers in all industrial and business concerns enlarge the now limited field of employment for Negroes, permitting them an equal chance with whites to enter all positions for which they might qualify by efficiency and merit.

"2. We urge that, as a measure of justice, Negroes be advanced and promoted on the jobs according to their individual capacities and merits.

"3. To labor unions we urge the admission of Negroes to full membership whenever they apply for it, and possess the trade qualifications required.

"To emergency relief organizations

"4. Where emergency work programs are being administered, it is urged that Negroes be given employment in proportion to their needs rather than in proportion to their ratio in the population.

"To white workers

"5. We recommend an increasing tolerance toward Negro workers that they may not only secure better employment but also the benefit of labor organizations and training facilities."

A further study of the employment experiences of Negro workers in New Jersey was instituted in 1931.² Over 1,800 concerns employing 334,000 workers were embraced in the study. Fifty-five percent of these firms excluded Negro workers who were 5.5 percent of the State population but only 3.7 percent of the gainfully employed. Among those Negroes who were gainfully employed, discriminatory policies, manifested through the fixing of job ceilings, operated to the extent

¹ The Negro in New Jersey, December 1932, Ira DeA. Reid.

² The Negro in Industry, Utilities, Commerce, and Public Service in New Jersey, 1934. New Jersey Department of Institutions and Agencies, in cooperation with the New Jersey Conference of Social Work and the New Jersey Urban League.

that 68 percent of the total were earning less than \$20 per week, with a median weekly earning of \$17.41 for the 12,505 Negro workers included in the study. It was not surprising, therefore, to learn from the records of the Department of Institutions and Agencies⁴ that during this same period, extending from 1935 through 1939, this minority group comprised 25 percent of the State's relief load, at an average cost during the period of \$28,000,000 per year for this group alone. Thus the direct cost to society of the luxury of employment discrimination was disclosed by competent authority.

The summary of findings of this study is presented as follows:

I. Negro families are considerably over-represented on the relief rolls as compared to their ratio in the general population.

II. Employment opportunities in industry, trade, commerce, utilities, and public service are very limited for Negroes.

III. Restricted opportunities for Negroes are reflected in an almost lack of difference in incomes of the various groups. Thus, many years of formal training in schools and colleges as well as years of practical experience and the acquiring of special skills go unrewarded in promotions and in increased incomes.

IV. Employment opportunities are as disproportionate for the Negro as compared to his ratio in the general population as is his overrepresentation on the relief rolls.

V. Employment opportunities in various types of industry vary from locality to locality.

VI. Negroes are employed in some capacity in all of the broad divisions of enterprise as used by the Federal Bureau of Census.

VII. Manufacturing and mechanical industry and domestic and personal service absorbed 79.7 percent of the Negroes gainfully employed in establishments touched by this survey.

VIII. One thousand eight hundred and sixty-seven establishments were employing 334,180 persons when this survey was made. Of these 321,075 were white.

IX. Eight hundred and thirty-eight of the establishments employed 12,505 Negroes, who constituted 3.7 percent of the employees in the 1,807 establishments, although 5.6 percent of the population.

XI. 54.9 percent of all establishments contacted, numbering 1,018, were not employing Negroes. Of these more than 1,000 firms, 230 had employed Negroes at some time in the past, but 788 had never had Negroes in their employ.

XV. The Negro part of the community is not more nor less restless than the other parts. It has been subjected to the same influences, and though its environment is less attractive, often lacking essential facilities, yet it has reacted with as great fortitude under adversity as has the rest of the American population.

The significance of these several studies rests in the fact that education, as the term usually is employed, had contributed little toward changing the status of this one minority during the period from 1903, through 1931, to 1935.

EDUCATION UNDER THE LAW

The educational potency of legislative act is too frequently underemphasized or completely ignored. New Jersey experience since passage of the antidiscrimination law clearly demonstrates that an area of study has been opened to businessmen, union leaders, educators, publicists, and the general public which hitherto had been neglected or rejected. What had been nobody's business has become everybody's subject of inquiry. Whether the motivating influences be self-protection or consciousness of and concern with the public weal, the results have been the same.

The press, which in the past usually had failed to mention the subject, has been forthright in discussing the aims and purposes of and general philosophy behind the law. Educators have been induced to give greater thought to the need for a broader educational base on the subject of human relationships. Employment agencies have seen the necessity for examining their referral practices, and high-school counselors and principals for abandoning the former practice of screening out minority group graduates at the request of employers. Meantime, Rotary,

⁴ Correspondence August 1, 1945, by Douglass H. MacNeill, Department of Institutions and Agencies, to Newark Sunday Call.

Kiwanis, and the service clubs, representing the employer group, employment managers' associations, and labor groups and institutes, have utilized the services of division personnel for discussion of the problem of discrimination and the meaning of the law. Specialized education, demanded as a result of personal interest, and presented by competent experts, is being promoted on a wide scale in New Jersey since the enactment of the law, as never before.

EDUCATION THROUGH AUTHORIZED ORGANIZATION

Under the provisions of the New Jersey act, the non-salaried, seven-man State council is authorized to create county councils whose function shall be to study the problems of discrimination, recommend programs for their correction, and through good will and conciliation, to repair the state of intergroup relations in the county community.

Eight such county councils have been formed through the careful selection of no more than 25 well known, responsible, and broadly representative citizens in each of the counties. These groups, under the close supervision of the State council and with the technical advice and assistance of division personnel, are exploring the various areas of dissatisfaction and tension; are inaugurating such studies as conditions seem to indicate; and are instituting programs of good-will education which their knowledge of home communities suggests as necessary or helpful.

While the State council and division staff may deal directly and effectively with State government and departments, the county council provides personalized liaison in matters involving county and municipal affairs, and educational activities designed for local application among fellow townsmen.

One such activity has been a series of studies of employment practices in businesses within the county area. Five councils have promoted such studies by securing cooperation of fellow citizens within the county in determining the amount and kind of discriminatory employment practices affecting various minority groups. The study is so designed that, while securing and assembling data from all larger firms in the area, business heads also receive first-hand interpretation of the total problem, features of the law, and methods by which the employer may observe the statute without damage to his production program. Direct education where it is most vitally needed is the end result of this one venture. It is gratifying to note, in attempting to summarize the effect of these educational efforts, that many more employers are voluntarily adjusting their employment policies than statistics of case intake and enforcement procedure would imply. The educational value of the law, in the setting forth of a code of ethics expected by the people of the State, is the most potent feature by which the majority of employers and labor unions are guided in their operations. The threat of legal reprisal was essential in rousing consciousness in the many. Actual use of this legal instrument may be required for the few. Experience thus far seems to indicate that litigation will be necessary in but very rare instances.

CONCLUSION

New Jersey has not eliminated the evil blight of employment discrimination as a result of the passage of the antidiscrimination law. It has, however, taken a long, intelligent, and pace-eating stride of progress by giving real hope to tens of thousands of its citizens for whom the rights of life, liberty, and pursuit of happiness have not materialized.

The great American dream, whose realization is the one complete answer to foreign ideologies, is coming true for thousands of minority group workers who, only a few months before, were experiencing rebuff, humiliation, and disillusionment.

Federal enactment of a fair employment practices law will in no way hamper, retard, or interfere with State operations in New Jersey. Rather, such legislation will strengthen and support the work of the division through regulation of the practices of interstate corporations and national and international unions. On the other hand, the experiences and facilities of the New Jersey Division Against Discrimination will be available to the administrators of a Federal organization if the Congress will adopt the pending fair employment practices bill.

Reports of complaints, May 1947

COMPLAINTS RECEIVED

	1946	1947				
	December	January	February	March	April	May
Formal.....	5	2	12	8	8	12
Informal.....	5	1	5	3	2	4
Miscellaneous.....	1	1	1	0	3	3
Total.....	11	4	18	11	13	19

COMPLAINTS RECEIVED (AGGREGATE TO MAY 1 AND TO DATE)

	July 1, 1945, to May 1, 1947	May	To date
Formal.....	161	12	173
Informal.....	76	4	80
Miscellaneous.....	60	3	59
Total.....	293	19	312

OPEN COMPLAINTS BY MONTHLY COMPARISON AT CLOSE OF—

	1946	1947				
	December	January	February	March	April	May
Formal.....	53	48	53	44	41	43
Informal.....	5	2	2	2	3	6
Miscellaneous.....	1	2	2	1	3	6
Total.....	59	52	57	47	47	54

CASES CLOSED (BY REASON FOR CLOSING)

	Number	Percent
Adjusted satisfactorily.....	45	34.6
Withdrawn.....	18	13.8
No jurisdiction.....	8	9.3
Insufficient evidence.....	4	
On merit.....	55	42.3
Total.....	130	

NATURE OF FORMAL COMPLAINTS

	Total	Closed	Open
Refused union membership.....	2	0	2
Refused to hire or refer.....	139	104	35
Dismissal.....	15	15	0
Refusal to work with.....	6	4	2
Upgrading.....	5	5	0
Discriminatory wages.....	4	0	4
Advertising.....	2	2	0
Total.....	173	130	43

EMPLOYMENT: A CIVIL RIGHT IN NEW JERSEY

(By Harold A. Lett)

[This article offers an analysis of the New Jersey law against discrimination in employment (the Hill law, ch. 109, Public Law 1945). Passed without fanfare and operating smoothly, the law is slowly correcting conditions by emphasizing education and conciliation, although as a last resort it has plenty of teeth for enforcement.]

When the late President Franklin D. Roosevelt acceded to the suggestions of Negro and white progressives of the country and created the Fair Employment Practices Committee, he initiated what may become the most significant and effective approach to the problem of race relations ever undertaken by government. It was the expression of a new, dynamic philosophy of governmental functions—the need to implement the fine ideals expressed in our Federal and State constitutions by giving practical, day-to-day meaning to those high ideals.

The FEPC, however, did its pioneering work during the feverish period of the war, when the destiny of the world depended upon America's ability to utilize all of her resources in the "war of production." What would happen during peace, particularly during the immediate postwar period let-down and reaction? Operating within the framework of this troublesome question were the proponents of State legislation for fair employment practice controls in a score of States, and there were also the opponents of such class legislation in those same States.

Among those States were New York and New Jersey, whose 1945 legislatures were debating the issue of fair employment controls. In New York, the opposition was highly organized and articulate; in New Jersey, it was subdued, and active only behind the scenes. In March 1946 the New York State Legislature, to the accompaniment of Nation-wide publicity and much debate, passed the first State law in the Nation outlawing discrimination in employment. But 1 month later, without debate, acrimony, or publicity, the New Jersey Legislature passed the Hill bill, which was almost identical with the Ives-Quinn measure in New York.

The almost simultaneous and comparable actions but contrasting experiences of the two States are a matter of such significance that a bit of historical background may be required.

The State of New York has usually been in the vanguard of liberal racial attitudes. As the port of entry for millions of immigrants for generations, New York has had to formulate a creed and a working plan, in its own interest, that would minimize intergroup tensions and conflict. Its polyglot population has provided America's severest test of the democratic principle, and it has had to work diligently at the task of making democracy real and meaningful to all its people. Its position on the issue of human slavery was unequivocal and the State has been forthright and courageous in blazing new paths toward human freedom, insofar as practical, partisan politics has permitted.

The history of New Jersey, on the other hand, has shown much greater influence of southern traditions and mores. New Jersey was a slave-holding State, even after the year 1860, when every other State north of the Mason and Dixon's line had outlawed the practice. During the period of reconstruction, New Jersey was so disturbed by the northward migration of freedmen that for a period of 7 seven years its legislature made annual appropriations toward subsidization of the colonization program in Liberia. Not until 1875 was the franchise granted to Negro citizens in the State.

SOUTHERN PATTERNS

Even today, a large section of New Jersey adheres faithfully to the southern biracial pattern. Draw an imaginary line across the "waist" of the State and you have a State Mason and Dixon's line. Below this imaginary boundary is the State capital, and 10 of the 21 counties in the Commonwealth. In these 10 counties reside 26 percent of the State's population, and 41 percent of the total Negro population. Although the quarter of a million Negro citizens represent 5.4 percent of the State's population, they constitute 8.8 percent of the residents of these southern counties though but 4.4 percent of the population in the northern industrial counties.

In New Jersey's "south" industry is concentrated in a very few centers such as the Trenton and Camden areas, while, in a general sense, agriculture and food

processing have followed the pattern of the agrarian economy which characterizes our national South. Here, too, has been the almost universal picture of racial separation in residential areas, in occupational outlets for Negro workers, in use of restaurants, taverns, and other public facilities, and in the widespread policy of elementary-school segregation. A recent survey conducted by Miss Noma Jensen, of the NAACP national staff, disclosed that in a study of 58 communities of the State, various forms of racial segregation were being practiced in the elementary grades in at least 23 of these towns. Thus, New Jersey can be pictured as a small working model of the Nation in respect to its total economy and its racial pattern.

One significant exception can now be made. As late as 1945, the State capital, Trenton, could be compared in almost every detail to the National Capital, Washington. Schools were segregated, public facilities discriminated against Negroes in open and flagrant violations of the State's civil-rights laws, Negro workers in State offices were few and confined to menial tasks, with some half-dozen exceptions, and the municipal government was coldly indifferent to the welfare of its Negro citizens. The progressive program of the Trenton Committee for Unity, organized through the joint efforts of an Irish-Catholic newspaper owner-editor, a Jewish jurist, and a Protestant churchman, and supplemented by the full-time services of a Smith graduate and ex-Junior League, led to undreamed-of changes in the local pattern, even to the complete elimination of the segregated school set-up.

It was upon such a stage and before such a backdrop that New Jersey's anti-discrimination bill was presented to the lone Negro assemblyman, Dr. J. Otto Hill, who was a member of the Essex County delegation. Republican Governor Walter E. Edge, now voluntarily retired to private life, favored passage of the bill and assisted actively in the mobilization of support. His was a sincere recognition of the commitments made by the Republican Party in the formation of its national platform. It should be said that a second FEPC bill had been presented by a member of the Democratic minority in the assembly, but he later recalled his bill and marshaled Democratic support behind the Republican administration measure.

Progressive forces in the State rallied to the support of the measure in anticipation of an organized opposition which never materialized openly. Toward the latter part of the legislative session, public hearings were scheduled and the assembly chambers were packed with FEPC adherents with myriads of suggestions designed to strengthen the bill, but they actually jeopardized its passage by delaying assembly action until near adjournment time. This threat was averted by speedy organization and coordination of activities and interests of all proponents. Not one voice was raised in open opposition to the measure, and it cleared both houses without debate or serious opposition. These little-known sidelights also were responsible for the widespread belief that the New Jersey statute lacked teeth.

IKES-QUINN VERSUS HILL LAW

Actually, there are but two minor differences between the New Jersey and the New York laws. Both bills class violation of the law as a misdemeanor. In New Jersey, a misdemeanor is an indictable offense requiring grand-jury action before prosecution. This is a feature of the State's basic legal structure which does not apply in New York, and is not a defect or weakness in the anti-discrimination law per se. Another feature which differentiates the New York law from that in New Jersey is that the administrative authority in New York is vested in a five-man commission stemming from the executive department, while in New Jersey, where all such commissions have been allocated to departments having cabinet representation, authority was assigned to a branch of the State department of education under the name of the division against discrimination. A discussion of the advantages and disadvantages of each system is without the limits of this article.

In New Jersey, therefore, the commissioner of education is the nominal head of the division. His authority is vested in an assistant commissioner of education, Joseph I. Bustard, who is one of six officials in the department carrying this title. The others, respectively, are assigned to elementary, secondary, higher, and vocational education, and to the business administration of the department.

Under Commissioner Bustard are assistants in charge of compliance and of education, respectively, as authorized in the definition of the division's functions in the text of the act. The policy-making functions are not assigned to the

board of education, as some may assume, but are vested in a nonsalaried, nine-man council which is also directed by the act to "create such advisory agencies and conciliation councils, local, regional, or State-wide, as in its judgment will aid in effectuating the purposes of this act, and the council may empower them to study the problems of discrimination in all or specific (author's italics) instances of discrimination because of race, creed, color, national origin, or ancestry * * * and to foster through community effort or otherwise good will, cooperation, and conciliation * * * and make recommendations to the council for development of policies and procedures in general and in specific instances and for programs of formal and informal education which the council may recommend to the appropriate State agency."

Any analysis of the effectiveness of this type of legislation must of necessity include all facets of the problem the law is intended to correct. As in the New York act, New Jersey softens the enforcement provisions of the bill by requiring certain paralleling educational activities and reasonable efforts to adjust difficulties through interpretation, conciliation, and persuasion. There is little opportunity, under the law, and no inclination on the part of its administrators, to embark upon a course of bureaucratic, hard-boiled display of strong-arm tactics. The problem of employment discrimination grows mainly out of a morass of tradition, ignorance, and fear. It is the studied practice of exploiting these emotional factors which must and can be eliminated by legal force. The emotional factors, however, will not yield to legal authority alone; education and information must be the constant handmaidens.

Within this framework, therefore, employment practices are considered to be unlawful when, because of race, creed, color, national origin, or ancestry—

An employer discriminates in hiring, upgrading, in terms, conditions, or privileges of employment, or in discharging an employee;

A labor union discriminates against applicants for membership or its members, or against an employer or employee;

An employment agency or employer discriminates in registering or referring to jobs, or in making inquiries, advertising, or circulating statements which disclose the race, creed, color, or national origin of an applicant, or imposes any limitations upon such persons because of his ancestry;

An employer or any other person, resists the employment of such person or aids, abets, incites, compels or attempts to incite or compel the doing of a discriminatory act;

Anyone—employer, labor union, or other person—discriminates against a person because he has filed a complaint, testified, or otherwise opposed any act forbidden by this law.

As to the question, "Does the law have teeth?" section 25 of the act, which is the enforcement provision, reads as follows:

"Any person, employer, labor organization, or employment agency who or which shall willfully resist, prevent, impede, or interfere with the commissioner or any representative of the division in the performance of duty under this act, or shall willfully violate an order of the commissioner, shall be guilty of a misdemeanor and be punishable by imprisonment for not more than 1 year, or by a fine of not more than \$500 or by both. * * *

HYPOTHETICAL CASE

For purposes of practical illustration, let us take a hypothetical case and follow it through to the bitter end (which, by the way, has not been required to date). Jane Brown files with the division an affidavit making certain specific charges against the Blank Manufacturing Co., which discriminated against her because of her race. Miss Brown is interviewed by a representative of the division to check carefully upon all the elements of the incident and her written charges. This interview also determines whether Miss Brown is a person qualified for the position in question, for the obvious purpose of finding any legitimate reasons for her rejection by the employer. The division representative then embarks upon a thorough investigation of all elements of the alleged discriminatory incident until the facts are well established.

Under the law, the division is then required to enter into a reasonable period of conciliation and persuasion, enabling the Blank Manufacturing Co. to alter its policy voluntarily by providing employment for Miss Brown commensurate with her training and experience, and by thereafter employing all persons on this basis without regard to race, color, creed, or national origin. Should these efforts be fruitless, the commissioner calls a public hearing, with authority to

subpoena persons and records. If the testimony presented in such hearing upholds Miss Brown's charges, the company is served with an order to cease and desist from the practice and policy. It is well to note that the processes of investigation and conciliation are completely off the record under the provisions of the law, but that public hearing is open to the press at the will of the commissioner, and all matters pertaining thereto become matters of public record.

The commissioner's order is subject to review by the State supreme court, upon petition of either complainant or respondent. Affirmation by this court of the commissioner's findings in public hearing, and of the justice of his order, makes the Blank Manufacturing Co. liable to citation for contempt of court should it persist in the discriminatory practices which were the subject of complaint. Such persistence, then, also becomes subject to prosecution under the charge of violation of the commissioner's order, leading upon conviction to such penalty as may be imposed by the court.

In evaluating the efficacy of the law, therefore, it should be noted that three different weapons are made available to the complainant and the division. The first of these is the weapon of publicity, which accompanies the commissioner's scheduling and holding of a public hearing. Not many employers or labor unions are willing to court the unfavorable effect of this kind of press comment. The second weapon is the penalty of contempt of court which may follow affirmation of the commissioner's order by the supreme court, and the third is that which may result from prosecution in the court of common pleas.

As stated earlier in this article, however, the enforcement provisions and the weight of the usable penalties are not true measures of the over-all effectiveness of the law. It is well to remember that all employers and all labor unions are not willful violators of rules of democratic practice.

Actually, the majority who have employed discriminatory practices have done so through deep-seated, though usually fallacious, fears—fears based upon rumor, isolated experiences, and upon the types of misinformation and miseducation that have characterized intergroup relations in American life. Others have followed these practices as a matter of convenience—it is much easier to follow prevailing practices than to change them.

The educational features of the law consequently, can be made the most effective instrument, providing, of course, the term "education" connotes a dynamic, meaningful relationship to the total content of the problem of discrimination.

It is with this in mind, therefore, that the division immediately set up a series of conferences in the State. The first of these was with a group of the most influential industrialists in the State, with whom were discussed all aspects of the problem of discrimination; its social cost to the State community; its effect upon the social attitudes of minorities; its measurable results in terms of community relationships; and the total contribution toward ill will and potential conflict being made by every discriminating employer. In this and subsequent meetings with employer groups, confessions were made that this was the first time such interpretations had made an impression. Similarly, a conference was held with the press association of the State to emphasize the significance of discriminatory help-wanted advertisements and to obtain sympathetic interpretation of the law.

The role of the placement agency in aiding and abetting employers in the act of discriminating was recognized at the outset. While still under Federal supervision, managers and supervisors of every New Jersey office of the employment service were met by division executives in forum discussions. They, and subsequently their local staff members, were given explicit interpretations, instructions, and warnings, as was done with a large segment of the private employment agencies in the State. To this latter group the commissioner of labor gave the unequivocal ultimatum that a violation of the antidiscrimination law by any agency would lead to cancellation of that agency's license.

Division representatives are meeting employer groups, service clubs, educators, professional bodies, and others in every corner of the State—people who hitherto have expressed little concern with the problem of intergroup relationships. In the first year of operation nearly 300 such groups, representing approximately 30,000 people, engaged in these frank discussions of the problem. Perhaps the most effective bit of education, however, has attended a series of studies of employment practices, conducted by the field staff under the sponsorship of the county councils created by the State council against discrimination.

To date, these surveys have been conducted in 5 counties, reaching more than 250 of the State's largest employers. While securing for the division basic

information as to employment practices, minority group employment, and employer and employee attitudes, this type of contact has permitted an intimate interpretation of the reasons for and meaning of the law, as well as frank discussion of the employer's opinions and fears. Although supporting statistical data are not now available, it is the considered opinion of division executives that this approach has served to change and liberalize the policies of more employers than have the 153 complaints which have been received and adjusted to March 1 of this year.

More than half the complaints received by the division in the 10 months of its operation have been verified or formal complaints submitted in affidavit form as required by law. A great many persons neglected to follow up their first indignant telephone call or complaint with a formal affidavit.

However, as the description of New Jersey racial patterns and mores has indicated, the relatively small number of affidavits by no means measures the extent of this discrimination in employment. These patterns have existed for so long and have become so taken for granted that it is little wonder that aggrieved parties should fail to avail themselves, instantly and in great numbers, of the remedy now available.

While the air is lively with debate as to the hopes of enacting a Federal fair employment practice bill, it would be well for individual citizens, and for agencies interested in eliminating discrimination based upon race, color, or religion, to bear in mind that the effectiveness of this type of legislation depends upon the use of it by the citizen himself.

The New Jersey division has made an auspicious beginning in quiet work with employers, schools, employment agencies, and key groups throughout the State. The commission has got under way with its local councils which are study and education groups designed to spread an understanding of the new law by both workers and employers.

The New Jersey experience clearly indicates that in addition to the educational activities of the State agencies, civic groups, interracial bodies such as the N. A. A. C. P. and the Urban League, church groups, labor unions, and community clubs must help to educate the individual to his rights under this law.

The minority groups wanted antidiscrimination legislation. The wartime FEPC proved (if proof were needed) that widespread, senseless, and undemocratic discrimination in employment existed. New Jersey enacted a law and thus discharged in substantial part its obligation to its minority-group citizens in the area of employment. Upon these citizens now devolves the task of seeing that the law is made to work.

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(Mr. Bustard submitted the Annual Report of the Division against Discrimination, Department of Education, State of New Jersey, as follows:)

ANNUAL REPORT, 1945-46, OF THE STATE OF NEW JERSEY, DEPARTMENT OF EDUCATION, DIVISION AGAINST DISCRIMINATION, NEWARK

INTRODUCTION

New Jersey's law against discrimination was in actual operation for 1 year on July 1, 1946. The passage of the law itself in April 1945, due to its pioneering nature caused not only State-wide but national comment. New Jersey's law was passed shortly after the Ives-Quinn bill was passed in the neighboring State of New York. Until recently, when Massachusetts passed a similar law, New Jersey and New York were the only States in the Union with effective laws aimed to curb the evils of discrimination in employment because of race, creed, color, national origin, or ancestry.

The law created in the State department of education, a division to be known as the division against discrimination with power to prevent and eliminate discrimination in employment against persons because of race, creed, color, national origin, or ancestry by employers, labor organizations, employment agencies, or other persons and to take such other actions against discrimination because of race, creed, color, national origin, or ancestry, as provided in the statute. The provision thus created consists of the commissioner of education and a council of

seven members appointed by the Governor with the advice and consent of the senate.

The commissioner of education, then and with the aid of an assistant commissioner of education, is charged with the observance features of the law. He is given the power to receive, investigate, and pass upon complaints alleging discrimination in employment against persons because of race, creed, color, national origin, or ancestry. He may also hold hearings, subpoena witnesses, compel their attendance, and take other steps necessary in conducting investigations or hearings.

The council of seven members is authorized to advise and consult with the commissioner and survey and study the operations of the division. In addition, the council is required to "create such advisory agencies and conciliation councils, local, regional, or State-wide, as in its judgment will aid in effectuating the purposes of this act, and the council may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, creed, color, national origin, or ancestry and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the State, and make recommendations to the council for the development of policies and procedures in general and in specific instances and for programs of formal and informal education which the council may recommend to the appropriate State agency." The council, representing the citizenry of the State, thus serves in an advisory capacity in policy making for the division, and, in addition, is armed with authority to initiate programs of fact finding and education wherever it deems such action necessary.

COMPLAINTS

The interest of most people centers around the question of complaints and their processing under the law. Contrary to some predictions, the office during the first year has not been overwhelmed with complaints. This, in general, is a healthy situation and may be due to several factors, namely, the employment situation throughout the State is relatively good; personnel policies of many concerns have voluntarily been modified to conform with the law; and perhaps most important is that complaints have not been agitated by so-called minority group leaders as was pessimistically forecast by some opponents of the law. On the other hand, some discrimination in employment still exists in New Jersey and it may be that despite the publicity that has been given to the existence of the law, there are many people in the State who do not understand how they may seek redress.

During the first year of operation, from July 1, 1945 to June 30, 1946, a total of 161 complaints were handled by the division. As of June 30, 1946, 130 of these complaints had been closed and 17 were in process of conciliation. This number pretty well parallels the first year's experience in New York where with approximately three times the population of New Jersey, the New York commission handled approximately three times the number of complaints. A majority of the complaints, 107 in number, dealt directly with employment. The remaining 40, while classed as miscellaneous for purposes of recording, dealt with situations bordering on employment as well as a variety of discriminatory acts practiced against certain citizens of the State.

It is interesting to note that the formal complaints received were based on the following practices:

- Refusal to hire.
- Discriminatory dismissal.
- Refusal to work with Negroes.
- Refusal to register for employment.
- Discriminatory advertising.

A further break-down shows that discrimination was charged because of race, or color, national origin, and creed.

Many of the 40 miscellaneous complaints received, as stated above, dealt with situations touching on employment such as working conditions, application forms, union membership, and advertising. The remaining miscellaneous complaints dealt with types of discrimination covered by the civil rights laws such as discriminatory literature, advertising exclusion from schools, theaters, libraries, and restaurants. The division, while not given any specific power regarding some of these complaints, has as a public service and in keeping with the spirit of the law, through one means or another, attempted to solve them satisfactorily.

It is very gratifying to report that, to date, it has not been necessary in handling any of the verified formal employment complaints, to carry them to the public hearing stage for settlement. In keeping with the letter and spirit of the law, every effort has been made to settle complaints at the conciliation and conference level.

REGIONAL COUNCILS

The State council in carrying out its duty under the law, as mentioned above, deliberated considerably over the problem of organizing local or regional councils to study problems of discrimination in all or specific fields of human relationship. It was finally decided as a matter of policy to proceed with the organization of regional councils on a county basis. It was also agreed by the members of the State council that the membership of these county councils should be composed of a representative cross section of the population of each respective county in the State. As a result, these regional councils represent both liberal and conservative points of view including representatives of education, the clergy, industry, labor, so-called minority groups, and civic-minded citizens in general. It was further decided as a matter of policy that no attempt should be made to rush the organization of these regional councils against a set time schedule.

As of June 30, 1946, five of these regional councils have been organized in the following counties: Burlington, Essex, Mercer, Monmouth, and Passaic. Present plans call for organizations to be set up in Salem and Camden in the early fall with other counties to follow as the year progresses. The policy of the State council also calls for the services of members of the staff of the division to be available for advice and technical assistance to all regional councils.

Perhaps the most noteworthy outgrowth of the work of regional councils, up to the present, have been the requests of the first three counties organized, Mercer, Burlington, and Essex, for an employment study to be made in their respective counties by members of the division staff during the summer and early fall. These requests were granted at the June meeting of the State council and the necessary instructions agreed upon for the guidance of the members of the staff of the division. The resultant conferences that will take place between employers, labor, and members of the staff should open the door of opportunity for a vast educational program concerning the whole field of discrimination in employment, by assembling a body of factual information on employment policies and practices. This information, in turn, by indicating patterns and trends, will serve as a guide in the direction of educational programs. This project when carried on in all the counties of the State will offer much promise in making the educational features of the law effective.

Several local problems involving discrimination in some field of human relationship, have been discussed at all regional council meetings. Members of regional councils have thus far shown excellent judgment in not attempting to solve long-existing evils by injudicious action. No doubt, as time goes on, these groups of citizens working together in local areas will come forward with some well-thought-out solutions to problems that heretofore have been condemned by all right-thinking people but about which no effective solution has been found.

EDUCATIONAL ACTIVITIES

General educational work has been started in many fields. One of the most significant accomplishments has been the work of members of the staff in appearing before groups of citizens to explain the philosophy and interpret the workings of the law. All types of groups have been addressed, composed of the following: Personnel managers, industrial executives, owners, labor-union delegates, educators, college students, so-called minority group members, club women, and religious groups. During the year members of the staff have made over 250 talks before approximately 33,000 people, as well as a number of radio presentations over New Jersey stations. The newspapers of the State have been most cooperative in carrying news items pertaining to these meetings. Several magazines and trade journals have printed articles written by staff members concerning the work of the division.

In addition to appearing before group meetings, members of the staff have held or attended a total of 85 conferences related to the operation of the law. These conferences have been held with representatives of industry, labor, education, governmental agencies both State and national, the press, the clergy, and organized minority groups. In practically every instance, these conferences have been held in a friendly vein and have resulted in a greater understanding of the

purpose of the law. Members of the staff as well as others attending the conferences have been educated concerning the many problems involved in operating an antidiscrimination law.

Another feature of the educational program has been the distribution of over 100,000 pieces of general literature in the field of human relations. This literature has been distributed on request to service clubs, women's organizations, labor unions, social agencies, and other interested groups and individuals. All of it has been furnished to the division without cost by several national organizations including:

Council Against Intolerance in America.
National Conference of Christians and Jews.
Anti-Defamation League.
American Jewish Committee.
Common Council for American Unity.
American Council on Race Relations.
Intercultural Education Service Bureau.

A still greater variety of literature dealing with race relations and intercultural education has been distributed to teachers, members of county councils, and clergymen.

School programs in intercultural education have been studied and encouraged. While many schools in New Jersey have been doing an outstanding piece of work for some time, it is the aim of the division to see a greater spread in all sections of the State. A member of the staff has personally visited the Springfield, Mass., schools and observed the Springfield plan in action. State Teachers College, Trenton, has been working on an outstanding project under the direction of the American Council on Education. This project is designed to give beginning teachers a viewpoint that will help them ease intergroup and intercultural tensions and misunderstandings. Through the efforts of the division, the cooperation of Rutgers University has been secured in attempting to establish a workshop in intercultural education for New Jersey teachers in the future. Sample courses have been prepared for use in the field of adult education and staff members have participated in the first course of its kind in New Jersey offered in Newark during the winter months.

A very important educational service has been rendered all through the year to employers, personnel managers, and some employment agencies regarding the use of job application blanks. Individual help has been given to interested parties in all sections of the State. Many employers have been informed as to the illegality of certain questions they were using and in no case on record has the employer refused to make the necessary changes in order to comply with the law.

CONTACTS WITH OTHER STATES

Continuous contact has been maintained with the New York Commission Against Discrimination. Meetings and conferences have been held that have been of mutual help to staff members of both organizations. Massachusetts called upon New Jersey for help and advice concerning its recently passed law. In addition, representatives from Rhode Island, California, Indiana, Ohio, Pennsylvania, and Wisconsin, have asked for and received suggestions concerning the operation of the New Jersey law. Many inquiries have been received from representatives of groups in several other States requesting information about the New Jersey law.

ATTORNEY GENERAL

The attorney general's office has rendered very valuable service in helping to interpret the many legal problems arising out of the application of the law.

Two formal opinions have been issued by the attorney general as the result of direct requests for rulings concerning certain cases presented to the division. The first opinion came as the result of inquiries asking whether New Jersey's law against discrimination affects the State government and its political or civil divisions. The essence of this opinion follows: "Mischief at which this law is aimed are, obviously, practices of discrimination (in employment) because of race, creed, color, national origin, or ancestry. It is inconceivable that the legislature would intend to exclude, from the purview of the statute, the State and its political units to the remotest degree while, at the same time, declaring (1) the enactment of the law to be for the 'protection of the public safety, health, and morals and to promote the general welfare,' (2) 'that practices

of discrimination against any of its inhabitants, because of race, creed, color, national origin, or ancestry, are a matter of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants * * * but menaces the institutions and foundation of a free democratic State; and (3) 'the opportunity to obtain employment without discrimination because of race, creed, color, national origin, or ancestry is recognized * * * to be a civil right.' Clearly the objective of the statute could not be accomplished without including the government."

"Therefore, although the statute in question contains no express provision embracing the government, the conclusion is inescapable that from the nature of the language used therein, the government is essentially embraced within the obvious purpose of the legislature and within the scope plainly intended to be given to the act.

"Accordingly, the State, its counties, municipalities, and school districts, and all other subdivisions of government as well as all heads of departments, and all boards and commissions of the State government and its subdivisions, are bound by this law."

"The second opinion was issued to settle a question of jurisdiction raised by the division concerning its right to entertain a complaint made, signed, and filed in behalf of the public by a person other than the commissioner of labor or attorney general. The following quotation from the attorney general's opinion is clear as to the jurisdiction of the division in cases of this kind: " * * * Where, however, no person can show, in addition to the unlawful discriminatory act, an injury to himself which is peculiar and distinct from that suffered by the public in general, the matter is purely one of law enforcement; and for public redress in such case, section 12 of the law against discrimination specifically names two public officers upon whom the right to institute action is conferred. While private citizens often have a special interest in the enforcement of a statute, nonetheless where the duty of enforcement is entrusted solely to a named public officer, private citizens cannot intrude upon his functions (*New Rochelle v. Brechtel*, 268 N. Y. 816; 197 N. E. 295; 100 A. L. F. 991). Obviously, it was intended that either of the public officers named in the New Jersey statute should act in a representative capacity, in behalf of the public. The specific naming of such officers in the statute, therefore, precludes all other persons from making, signing and filing a complaint in behalf of the public."

CONCLUSION

"The staff of the division as of June 30 consisted of eight employees headed by the assistant commissioner. There has been no attempt to place employees on the pay roll until a definite need for additional help was evident. No doubt, as the varied educational program of the division expands to all sections of the State there will be a need for several additional staff members. It may also be necessary, in the future, to establish a branch office of the division in the southern section of the State, preferably in Camden. Members of the staff have worked diligently to carry out the spirit of the law in both its enforcement provisions as well as its educational program. Good will and better relations among all the elements of the population of the State can best be secured at the level of conference and conciliation rather than through a series of unpleasant compulsory incidents. A bureaucratic approach to problems in the field of discrimination would, undoubtedly, hinder rather than help the program.

It has been refreshing to members of the staff to find that most New Jersey citizens with whom they have come in contact are in accord with the idea that a person should be given an opportunity to secure a position on his qualifications rather than on his race, creed, national origin or ancestry. Many employers have modified or changed their personnel policies in keeping with the above idea. In addition, because they are interested primarily in production, many industrialists have found this law helps production due to the fact that it emphasizes employment on merit.

Perhaps one of the most significant points that should be mentioned in a report of this kind is the fact that the predictions made by some of the opponents of this legislation have not materialized. It was prophesied that industry would not only stop coming to New Jersey but that some industries would even leave the State for other areas. It was also stated that race relations instead of being improved would steadily decline even to the point of alarm. Fortunately, at the end of the first year, it can be reported that the opposite is true.

Prejudice still exists in New Jersey and as a result, its outgrowth, which is discrimination, still is in evidence. New Jersey, however, has made a start in a pioneer movement designed for the benefit of all of its citizens. In the years ahead, the vast majority of New Jersey citizens will, undoubtedly, be proud that they lived in a State that was among the first to recognize more fully the civil rights of its inhabitants in keeping with the intentions of both the Declaration of Independence and the Constitution of the United States.

JOHN H. BOSSHART,
Commissioner of Education,
JOSEPH L. BUSTARD,
Assistant Commissioner of Education,
ROBERT C. CLOTHIER, *Chairman,*
HARRY B. DELL,
JAMES KERNEY, JR.,
LOUIS P. MARCIANTE,
JACOB STERN,
HERBERT H. TATE,
J. MARGARET WARNER,
Members of State Council.

SEPTEMBER 1940.

STATEMENT OF RODERICK STEPHENS, WESTCHESTER COUNTY, N. Y.

MR. STEPHENS. I appreciate the opportunity of being here, Mr. Chairman, and finishing up today.

SENATOR DONXELL. Will you please state your name and business, and if you appear for any organization what that organization is, or that you appear for yourself individually.

Where do you live, Mr. Stephens?

MR. STEPHENS. My name is Roderick Stephens. I am an enrolled Republican, as was my father before me. I reside in Westchester County, one of the strongest Republican counties of the East. My place of business, Bronx County, has been declared by no less a political authority than Mr. Edward J. Flynn to be the banner Democratic county north of the Mason and Dixon's line. Neither county is seriously tainted with communism or dominated by a radical or subversive ideology. Neither am I.

I am president of a retail fuel-distributing concern in New York City. It was founded by my grandfather in 1853. I am the third generation of Stephens to head this concern. We employ men and women, white and Negro, gentile and Jew, white-collar office and sales people, skilled and unskilled workers.

SENATOR ELLENDER. About how many?

MR. STEPHENS. About 200. And in associated concerns about 800—concerns that are associated with Stephens Fuel Co. We have an aggregate pay roll of about 1,000 employees.

SENATOR ELLENDER. Distributing gasoline?

MR. STEPHENS. Distributing coal and fuel oil throughout the State of New York.

SENATOR ELLENDER. You do not have any manufacturing of any kind?

MR. STEPHENS. No.

SENATOR ELLENDER. Most of your work is menial work?

MR. STEPHENS. By no means.

SENATOR ELLENDER. What is that but menial?

MR. STEPHENS. I would not say so.

Senator ELLENDER. How much office work have you?

Mr. STEPHENS. We probably have an office staff of 100 people—80 to 100 people.

Senator ELLENDER. How many of those are colored and how many white?

Mr. STEPHENS. I have not the proportions. It is a substantial proportion that are Negro, and I would say an increasing proportion.

Senator ELLENDER. You mean in the office.

Mr. STEPHENS. Yes.

Senator ELLENDER. In the distributing of coal—that is menial work, is it not?

Mr. STEPHENS. I do not think you would call it menial. You are driving a piece of equipment that costs \$10,000 to \$12,000. You are coming in contact with housewives.

Oil deliveries and coal deliveries today are more like milk deliveries, and the drivers in the business are still called chauffeurs; in the milk business you call them salesmen. But I do not consider it menial work at all.

Our staff, in effect, is a cross section of the community. We choose our employees by their qualifications—their experience, their intelligence, their industry, and their character. We have not found that race, religion, or color bears any relationship to these qualifications.

Some years ago Mr. Justice Hughes delivered a majority opinion for the United States Supreme Court, Mr. Justice McReynolds being the sole dissenter, in which the Court said:

It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the fourteenth amendment to secure.

I would like to adopt those words as the basis for my position on this subject. That statement expresses better than could words of mine the basic reason for my advocacy of Senate bill 984, against discrimination in employment.

This fourteenth amendment, which, until now, has been little more than principle and a promise, will, by the passage of Senate bill No. 984, become a living reality in the field of employment.

Think what that will mean in terms of self-respect, in terms of self-support, for millions of American men and women to whom our proclaimed principles of equality of opportunity have been a pretense and a sham.

The passage of Senate bill No. 984 will help those who most need help along the slow, uphill road toward civil liberty and equality of human rights and opportunities. It will be an inspiration to all who have a part in moving our Nation's standard forward.

To those who gloat, openly or secretly, whenever democracy fails or falters, it will be the Nation's ringing answer: Democracy will again be on the march. With the clash of ideologies which is apparent in all parts of the world, democracy and free enterprise will gain new adherents and renewed vitality by a demonstration what we in America have the ability and the courage to reinforce our principles with forceful and enforceable legislation.

None can claim, with truth, that this is a radical piece of legislation. It is no more radical than is our Federal Constitution. Its intent is in conformity with the constitutional guaranties of most of

our States. Only in the backward States does it really represent a step beyond their constitutional guaranty.

Fortunately, we now have a background of experience by which we can be certain that Senate bill No. 984 is practicable and enforceable. As a businessman, in daily touch with business affairs, with business men, and men in all ranks of the labor movement, in my own State, I can assert that the bill upon which this legislation is modeled has been shown, beyond dispute, to be sound legislation.

It is also significant that this bill has biparty sponsorship and broad support within both parties.

By that I mean not only the support of those who would be classified, perhaps, as liberals but conservatives and "middle of the road"; all phases of party support are, in my opinion, presented by those who are sponsoring this bill.

The fears expressed by some business men and business organizations before the passage of the New York State Act Against Discrimination in Employment simply have not been realized. That is something to be considered when you hear the very same predictions of disorganization, disorder, and disaster, as being sure to follow the passage of this bill—and you will assuredly hear such testimony—from persons and organizations who will generally profess support for the principle of no discriminations on the basis of race, religion, or color, in the field of employment.

And if you do not hear it in these hearings, you are certain to be told that is the case by those who will not come forward and state their position openly but will seek to express views on the side.

I propose to attach to each copy of my filed statement a copy of a concise pamphlet in which are set forth, in one chapter, in a single column, all the arguments advanced against the Ives-Quinn bill in the course of a truly historic State legislative hearing at Albany, N. Y., in February 1945. You will hear those same arguments repeated here, word for word, by opponents of the Ives-Chavez bill.

Senator DONNELL. Mr. Stephens, the pamphlet will be received as an exhibit. The committee will use its own best judgment as to whether it will be printed. It requires considerable expense to reprint such a large pamphlet as this; but it will be received as an exhibit.

Mr. STEPHENS. That is right, sir; and may I say in this connection that the quotes in the chapter I mentioned here are literally quotes in the arguments that were stated both for and against the Ives-Quinn bill at Albany.

Senator IVES. May I introduce an observation there? As I have listened to the testimony which has been made at the hearings on this bill so far, it follows more or less the pattern set in the testimony before the temporary State commission in New York which had this same problem facing it, and I think the evidence that is indicated in that pamphlet, inasmuch as it shows the fears—and there were fears expressed at that time by those people who doubted the advisability of the enactment of that statute.

Mr. STEPHENS. In a parallel column, you will find opposite each such argument the assertions made by the supporters of that bill to controvert each objection raised by the opposition.

Add to that record the experience of almost 2 years in New York State, reinforced by comparable experiences for shorter periods of time in several other States with similar legislation, and you will find

conclusive evidence to justify my statement that those fears which were not actually fictitious have been shown to be fanciful. You will find, too, that the promises of measurable progress toward equality of employment opportunities to qualified persons, irrespective of race, religion, or color, have been fulfilled. The total achievement to date has run far beyond the expectations of reasonable persons who know that legislation alone is no more a cure-all than is education alone; but when legislation and education are combined, they create an effective force, bound to produce tangible results.

The experience has proved that when men and women work together, they achieve greater understanding and respect for each other—even when they disagree—and do so more quickly and more completely than in any other way.

The experience has proved that the factory and office become the schoolrooms where ancient prejudices die.

Now, I want to return to the subject of business organizations. As a former president of the National Retail Coal Merchants Association, ex chairman of the National Code Authority for the Retail Solid Fuel Industry, ex president of the Bronx Board of Trade, and with many other such affiliations, I can say with assurance that the representatives of big business organizations, with few exceptions, are seldom in the forefront of social progress. A notable exception was recorded, during his last term of office as president of the Chamber of Commerce of the United States, by Mr. Eric A. Johnston, whose statement on the subject of discrimination is truly challenging.

That statement is already on record, and therefore I shall not repeat it, but I think it was a truly challenging statement.

While on the subject of business organizations, it is also important to remember how such organizations are conducted and how easy it is and how frequently it happens that a large and important organization may be recorded in support of, or in opposition to, a legislative proposal by a vote of only a handful of members.

Senator DONNELLY. Of course, that is equally true—

Mr. STEPHENS. I have that in my next sentence.

Frequently, in fact, generally, the membership of the organization knows nothing about the position to which they have been committed unless the story gets into the newspapers and they happen to read about it. The process is simple.

A board of trade or chamber of commerce may have a membership of 1,500 firms and individuals. Its affairs are generally dominated by its executive director, if he has held the office for any length of time. On its board of directors are perhaps 40 members, many of them cronies of the executive director. A larger board would be unwieldy. A quorum is probably not more than 12 members. An annual dinner meeting in the spring and a fall membership rally probably constitute the only occasions when rank-and-file meetings are held. Few such organizations have provisions to poll the membership at large on current issues. If such provisions exist, they are seldom invoked; and if resorted to, the participation, percentage-wise, is small.

Thus it was in the case of the Ives-Quinn bill, in the early part of 1945, that just such an organization, with more than 1,500 members, was committed, at a meeting of 12 directors, by a majority vote,

to a position in opposition to discriminatory practices in employment but opposed to the creation of a governmental commission to enforce a law against discrimination. Incidentally, for the record, I registered support for that commission on the part of a larger number of directors, individually, than the number who attended the meeting in question and voted against the proposed law. The group supporting my position included three ex-presidents of the organization, two presidents of local banks, and the president of our largest department store.

Senator DONNELL. What is the organization to which you refer?

Mr. STEPHENS. I refer to the Bronx Board of Trade.

In my statement I had the remark that this applies equally to organizations that profess support and to organizations that profess opposition, and I believe that you are entitled to, and should inquire into, the basis of any such commitment.

Yet, at the hearing, this organization opposed the bill. Another organization similarly recorded its—

firm belief in the principles contained in the State and Federal Constitution, "that no one should be denied rights and privileges guaranteed by Government because of race or color;"—

but questions the desirability of, and therefore opposes, the entire legislative program recommended by the Commission Against Discrimination. That was a beautiful straddle, wasn't it?

Still a third large organization supported the declarations of findings and principle contained in the Ives-Quinn bill and all its provisions for enforcement of the law, except that it opposed the creation of a State commission on the grounds of cost.

Hence, I urge the importance of determining the grounds of opposition and bases for such action, on the part of organizations which appear either in opposition to or in support of this or any other pending measure.

In the field of employment, it cannot be denied that the Negro is the minority group to suffer most from discriminatory conditions, in which connection I want to supplement Mr. Johnston's statement with two significant paragraphs from an excellent paper submitted May 23, 1947, to the Department of Economics and Social Institutions at Princeton University, by a World War II veteran in his junior year. His name is Donald H. Balleisen. He chose "Negro employment" as his topic, and he wrote:

The Negro problem is one of the most pressing economic issues facing America today. True, it is certainly our leading social problem, but its consequences are definitely economic in nature. No fair-minded, thoughtful, observant person has to read a book or magazine article to be aware of this fact. A walk through any Negro district will impress on one's mind their low economic status. A glance at relief and charity figures throughout the Nation will find the Negro drawing far more on a per capita basis than his share of expenditures made in these fields. In short we have a group constituting approximately one-tenth of our population, the vast majority of whom live in substandard conditions and must rely on the contributions of others to maintain them or, worse yet, do not significantly contribute to the advancement and welfare of the general mass.

As many have stated, the Negro problem will not be solved overnight, but this fact should not deter us from working toward its eventual solution. No one will deny the great advantage that would accrue from making a group that is today in many ways a drain on society, but a drain through no fault of its own, a contributor to society. Imagine the effect on the entire economy if each Negro family

was able to raise its yearly income by \$100 because it had been better prepared for its part in our national community.

To the above closing sentence I would like to add the phrase—

and because it had been denied no employment opportunity simply because of its dark skin.

Four short but significant assertions made at the 1945 Albany hearings are as true now as they were when made and seem to sum up concisely the case for the passage of Senate bill No. 984 by this Eightieth Congress:

The first:

It is regrettable but true that many veterans of World War II are seeking jobs, trying to put to use some of the new skills they learned while in the service of their country, and they are striving to make a normal adjustment to civilian life, but they, too, are confronted with the humiliating evils of discrimination because of their race, their color, their creed, or their national origin. These veterans fought against the enemies' theory of a master race only to come home and find that similar theories of racial superiority are a barrier to employment in their native land.

The second:

The suppression of people of ability belonging to minority racial or religious groups does a profound disservice to society in general, as well as to the humiliated member of the minority group himself, and urgently requires remedial legislation. They are merely a fresh declaration of the American faith that the United States of America is one nation, with liberty and justice for all.

The fourth:

It is said that the legislation is too idealistic. It is not anywhere near as idealistic as the baptism of this Nation in the faith that all men are created free and equal. It is not anywhere near as idealistic as the sublime affirmation in the American Constitution that "We, the people, given freedom and opportunity, are able to conduct government, establish justice, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

In conclusion I ask permission to quote from an exchange of views between the distinguished Senator from Maine, Mr. Brewster, and the distinguished Senator from New Jersey, Mr. Hawkes. This colloquy occurred on the floor of the Senate on April 18 past. Senator Brewster had said he was in favor of a certain \$100,000,000 loan "to buy time" and Senator Hawkes had suggested that "we could buy the time" by another means. This colloquy led to a succinct, timely, and significant expression of views concerning democracy. Mr. Brewster said:

I am not as much disturbed over that aspect as some others may be. Personally I am not burning any bridges on this matter. I am not embarking on any world program of extending our culture or democracy to all the world. I do not think we can make democracies by outside force. I think they come from within and not from without.

Mr. Hawkes said:

That is what I said yesterday. I said we could do a thousand times more by setting an example to show that democracy will work and make the people of the world want it, than we could do with all the bullets, bayonets, and bombs in the world.

It is on that basis that I support Senate bill No. 984. I want to see progress toward realization of equality of employment opportunity come "from within," as Mr. Brewster so well said, and thus, we "will be setting an example to show that democracy will work," as was so well said by Mr. Hawkes.

Senator DONNELL. Senator Smith, do you wish to interrogate Mr. Stephens?

Senator SMITH. Mr. Stephens, I think you gathered from the discussion today that I am trying to find ways to create just that atmosphere of making this work, and the only question in my mind has just been whether we need at this early stage of our experimenting—and this is an early stage—to put on the sanctions of law, whether we cannot try with the educational processes and conciliation processes in those areas where public opinion may be against the legal sanction; I do not think the whole country would be against it or for it. I know there are lots of States like my State, the State of New Jersey, and the State of New York and others where the law is entirely satisfactory. It is to me. But in areas where there is a public opinion that needs to be educated, where the traditions are different, and where there have been long periods of certain conditions, we have a big job of education to do before we can say, if you do not do as we say, we are going to send the Federal Government down to make you do so.

Mr. STEPHENS. I would be very fearful, Senator Smith, of the effects of passing a Federal act, all the provisions of which save the enforcement would be applicable to all States and as to enforcement creating something in the nature of a State option.

Senator SMITH. I view the difficulty of it.

Mr. STEPHENS. I think that would be very dangerous. I think the truth is the application and effect of this law will not progress at the same rate of speed in all parts of the country, but I think you would be loading it with a terrible dead weight if you removed the enforcement features. I think that is essential to progress.

Senator SMITH. I would not remove it; only suggest where they felt it was impracticable or undesirable that they could say we will accept the law, we accept this wonderful preamble of the statement of the principle, and we are going to see this work out. We believe it can work effectively by the education and conciliation practices, more effectively than by immediately saying to all our people in the area who feel very bitterly on this subject that you have to do so because the Federal law says so.

Mr. STEPHENS. I think you would be weakening it where the strength is most needed, and I think the sensible administration, application of the law, and the recognition of the law, as I say, that the same speed, progress would not be registered throughout the country, will be all the accommodation that will be necessary, and I think that process of a Federal act with enforcement provisions will tremendously speed up the day when there will be equality of employment opportunity, and I believe that is the test of good faith, and where persons are not willing that equality of opportunity shall exist. I think they are taking the position which disregards the guaranties of the Federal Constitution, and in my opinion the Congress and the people we send to Congress are here to administer, to pass legislation which will make our constitutional guaranties effective and real.

Senator DONNELL. Are there any further questions, Senator?

Senator IVES. I do not want to hold anything up here, but I would like to comment on Mr. Stephen's remarks.

He has taken time here voluntarily to testify before us. He is one of our leading businessmen in New York, of whom we have quite a number, who pitched in first to put this bill across. Mr. Stephens was among the leaders in that movement. He was very effective in the work which he did in helping us to have this bill of ours in New York enacted; and on top of it all he was even effective, if that were possible, in the work he did in enabling the administrators, those in charge of the commission, to make that law effective after it was enacted.

He did a great job there, and he has done a tremendous job in this field, and I want to thank him in my behalf and I know the rest of the committee feel the same way about his coming down here today.

Senator SMITH. I want to thank Mr. Stephens as you have and also for the fine talk I had with him at lunch time on the same subject, which I deeply appreciate.

We are all trying to get the same end, but we are discussing the most effective way.

As you have heard, the committee is very grateful to you; we appreciate your very interesting, helpful, and courteous presentation.

(Mr. Stephens submitted the following brief.)

STATEMENT OF RODERICK STEPHENS BEFORE SENATE SUBCOMMITTEE ON ANTIDISCRIMINATION LEGISLATION, RE SENATE BILL 984

My name is Roderick Stephens. I am an enrolled Republican, as was my father before me. I reside in Westchester County, one of the strongest Republican counties of the East. My place of business, Bronx County, has been declared by no less a political authority than Mr. Edward J. Flynn to be the banner Democratic county north of the Mason and Dixon's line. Neither county is seriously tainted with communism or dominated by a radical or subversive ideology. Neither am I.

I am president of a retail fuel-distributing concern in New York City. It was founded by my grandfather in 1833. I am the third generation of Stephens to head this concern. We employ men and women, white and Negro, Gentile and Jew, "white collar" office and sales people, skilled and unskilled workers. Our staff, in effect, is a cross-section of the community. We choose our employees by their qualifications—their experience, their intelligence, their industry, and their character. We have not found that race, religion, or color bears any relationship to these qualifications.

Some years ago, Mr. Justice Hughes delivered a majority opinion for the United States Supreme Court, Mr. Justice McReynolds being the sole dissenter, in which the Court said, "It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the (fourteenth) amendment to secure" (*Truax v. Raich*, 239 U. S. 33, p. 41; 1915). That statement expresses better than could words of mine the basic reason for my advocacy of Senate bill S. 984, against discrimination in employment.

This fourteenth amendment which, until now, has been little more than a principle and a promise will, by the passage of Senate bill S. 984, become a living reality in the field of employment.

Think what that will mean in terms of self-respect, in terms of self-support, for millions of American men and women to whom our proclaimed principles of equality of opportunity have been a pretense and a sham.

The passage of Senate bill S. 984 will help those who most need help along the slow, uphill road toward civil liberty and equality of human rights and opportunities. It will be an inspiration to all who have a part in moving our Nation's standard forward.

To those who gloat, openly or secretly, whenever democracy falls or falters, it will be the Nation's ringing answer: Democracy will again be on the march. With the clash of ideologies which is apparent in all parts of the world, democracy and free enterprise will gain new adherents and renewed vitality by a demonstration that we have the ability and the courage to reinforce our principles with forceful and enforceable legislation.

None can claim, with truth, that this is a radical piece of legislation. It is no more radical than is our Federal Constitution. Its intent is in conformity with the constitutional provisions of most of our States. Only in the backward States does it really represent a step beyond their constitutional guarantees.

Fortunately, we have a background of experience by which we can be certain that Senate bill S. 984 is practicable and enforceable. As a businessman, in daily touch with business affairs, with businessmen, and men in all ranks of the labor movement, in my own State, I can assert that the bill upon which this legislation is modeled has been shown, beyond dispute, to be sound legislation.

It is also significant that this bill has biparty sponsorship and broad support within both parties.

The fears expressed by some businessmen and business organizations before the passage of the New York State act against discrimination in employment, simply have not been realized. That is something to be considered when you hear the same predictions of disorganization, disorder, and disaster, as being sure to follow the passage of this bill—and you will assuredly hear such testimony—from persons and organizations who will profess support for the principle of no discriminations on the basis of race, religion, or color, in the field of employment.

I propose to attach to each copy of my filed statement, a copy of a concise pamphlet in which are set forth, in one chapter, in a single column, all the arguments advanced against the Ives-Quinn bill in the course of a truly historic State legislative hearing at Albany, N. Y., in February 1945. You will hear those same arguments repeated here, word for word, by opponents of the Ives-Chavez bill.

In a parallel column, you will find opposite each such argument, the assertions made by the supporters of that bill, to controvert each objection raised by the opposition.

Add to that record, the experience of almost 2 years in New York State, reinforced by comparable experiences for shorter periods of time in several other States with similar legislation, and you will find conclusive evidence to justify my statement that those fears which were not actually fictitious have been shown to be fanciful. You will find, too, that the promises of measurable progress toward equality of employment opportunities to qualified persons, irrespective of race, religion, or color have been fulfilled. The total achievement to date has run far beyond the expectations of reasonable persons who know that legislation alone is no more a cure-all than is education alone, but when legislation and education are combined, they create an effective force, bound to produce tangible results.

The experience has proved that when men and women work together, they achieve greater understanding and respect for each other—even when they disagree—and do so more quickly and more completely than in any other way.

The experience has proved that the factory and office become the schoolrooms where ancient prejudices die.

Now, I want to return to the subject of business organizations. As a former president of the National Retail Code Merchants Association, ex-chairman of the National Code Authority for the Retail Solid Fuel Industry, ex-president of the Bronx Board of Trade, and with many other such affiliations, I can say with assurance that the representatives of big business organizations, with few exceptions, are seldom in the forefront of social progress. A notable exception was recorded during his last term of office as president of the Chamber of Commerce of the United States, by Mr. Eric A. Johnston, whose statement on the subject of discrimination is truly challenging. He said, " * * * Wherever we erect barriers on the grounds of race or religion, we hamper the fullest expression of our economic society. Intolerance is destructive. Prejudice produces no wealth. Discrimination is a fool's economy. * * * The withholding of jobs and business opportunities from some people does not make more jobs and business opportunities for others. Such a policy merely tends to drag down the whole economic level. Perpetuating poverty for some merely guarantees stagnation for all."

While on the subject of business organizations, it is also important to remember how such organizations are conducted, and how easy it is and how frequently it happens that a large and important organization may be recorded in support of or in opposition to a legislative proposal by a vote of only a handful of members. Frequently, in fact, generally, the membership of the organization knows nothing about the position to which they have been committed unless the story gets into the newspapers and they happen to read about it. The process is sim-

ple. A board of trade or chamber of commerce may have a membership of 1,500 firms and individuals. Its affairs are generally dominated by its executive director, if he has held the office for any length of time. On its board of directors are perhaps 40 members, many of them cronies of the executive director. A larger board would be unwieldy. A quorum is probably not more than 12 members. An annual dinner meeting in the spring and a fall membership rally, probably constitute the only occasions when rank and file meetings are held. Few such organizations have provisions to poll the membership at large on current issues. If such provisions exist, they are seldom invoked and, if resorted to, the participation, percentage-wise, is small.

Thus it was in the case of the Ives-Quinn bill. In the early part of 1945, that just such an organization, with more than 1,500 members, was committed, at a meeting of 12 directors, by a majority vote, to a position in opposition to discriminatory practices in employment, but opposed to the creation of a governmental commission to enforce a law against discrimination. Incidentally, for the record, I registered support for that commission on the part of a larger number of directors, individually than the number who attended the meeting in question and voted against the proposed law. The group supporting my position included three ex-presidents of the organization, two presidents of local banks, and the president of our largest department store. Yet, at the hearing, this organization opposed the bill. Another organization similarly recorded its "firm belief in the principles contained in the State and Federal Constitution, that no one should be denied rights and privileges guaranteed by Government because of race or color," but questions the desirability of, and, therefore, opposes the entire legislative program recommended by the Commission Against Discrimination. That was a beautiful straddle, wasn't it?

Still a third large organization supported the declarations of findings and principle contained in the Ives-Quinn bill and all its provisions for enforcement of the law, except that it opposed the creation of a State commission on the grounds of cost.

Hence, I urge the importance of determining the grounds of opposition and bases for such action on the part of organizations who appear either in opposition to or in support of this or any other pending measure.

In the field of employment, it cannot be denied that the Negro is the minority group to suffer most from discriminatory conditions, in which connection I want to supplement Mr. Johnston's statement with two significant paragraphs from an excellent paper submitted May 23, 1947, to the department of economics and social institutions at Princeton University, by a World War II veteran in his junior year. His name is Donald H. Balleisen. He chose Negro Employment as his topic and he wrote:

"The Negro problem is one of the most pressing economic issues facing America today. True, it is certainly our leading social problem but its consequences are definitely economic in nature. No fair-minded, thoughtful, observant person has to read a book or magazine article to be aware of this fact. A walk through any Negro district will impress on one's mind their low economic status. A glance at relief and charity figures throughout the Nation will find the Negro drawing far more on a per capita basis than his shares of expenditures made in these fields. In short we have a group constituting approximately one-tenth of our population, the vast majority of whom live in substandard conditions and must rely on the contributions of others to maintain them or worse yet, do not significantly contribute to the advancement and welfare of the general mass.

"As many have stated, the Negro problem will not be solved overnight, but this fact should not deter us from working toward its eventual solution. No one will deny the great advantage that would accrue from making a group that is today in many ways a drain on society, but a drain through no fault of its own, a contributor to society. Imagine the effect on the entire economy if each Negro family was able to raise its yearly income by \$100 because it had been better prepared for its part in our national community."

To the above closing sentence, I would like to add the phrase, "and because it had been denied no employment opportunities simply because of its dark skin."

Four short but significant assertions made at the 1945 Albany hearing are as true now as they were when made, and seem to sum up concisely the case for the passage of Senate bill S. 984, by this Eightieth Congress.

The first: "It is regrettable, but true, that many veterans of World War II are seeking jobs, trying to put to use some of the new skills they learned while in the service of their country, and they are striving to make a normal adjust-

ment to civilian life, but they, too, are confronted with the humiliating evils of discrimination, because of their race, their color, their creed, or their national origin. These veterans fought against the enemies' theory of a master race only to come home and find that similar theories of racial superiority are a barrier to employment in their native land."

The second: "The suppression of people of ability belonging to minority racial or religious groups does a profound disservice to society in general, as well as to the humiliated member of the minority group himself, and urgently requires remedial legislation."

The third: "The means and the end contemplated by the bill are not revolutionary. They are merely a fresh declaration of the American faith that the United States of America is one nation, with liberty and justice for all."

The fourth: "It is said that the legislation is too idealistic. It is not anywhere near as idealistic as the baptism of this Nation in the faith that all men are created free and equal. It is not anywhere near as idealistic as the sublime affirmation in the American Constitution that 'We, the people, given freedom and opportunity, are able to conduct government, establish justice, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity'."

In conclusion, I ask permission to quote from an exchange of views between the distinguished Senator from Maine, Mr. Brewster, and the distinguished Senator from New Jersey, Mr. Hawkes. This colloquy occurred on the floor of the Senate on April 18 past. Senator Brewster had said he was in favor of a certain \$100,000,000 loan "to buy time" and Senator Hawkes had suggested that "we could buy the time" by another means. This colloquy led to a succinct, timely, and significant expression of views concerning democracy. Mr. Brewster said, "I am not as much disturbed over that aspect as some others may be. Personally, I am not burning any bridges on this matter; I am not embarking on any world program of extending our culture of democracy to all the world. I do not think we can make democracies by outside force. I think they come from within and not from without." Mr. Hawkes said, "That is what I said yesterday. I said we could do a thousand times more by setting an example to show that democracy will work, and make the people of the world want it, than we could do with all the bullets, bayonets, and bombs in the world."

It is on that basis that I support Senate Bill S. 984. I want to see progress toward realization of equality of employment opportunity come "from within" as Mr. Brewster so well said, and thus, we "will be setting an example to show that democracy will work," as was so well said by Mr. Hawkes.

The committee will be in recess until 9:30 tomorrow morning to meet again in this room.

(Whereupon, at 5:25 p. m., the committee adjourned subject to reconvening Thursday, June 19, 1947, at 9:30 a. m.)

ANTIDISCRIMINATION IN EMPLOYMENT

THURSDAY, JUNE 19, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the committee room, Capitol Building, Senator Irving M. Ives presiding.

Present: Senator Smith, Donnell, Ives (presiding), and Ellender. Senator Ives. The subcommittee will come to order, and we will continue the hearings on S. 984.

The first witness is Mrs. Mildred H. Mahoney, chairman, fair employment practice commission, Boston, Mass.

STATEMENT OF MILDRED H. MAHONEY, CHAIRMAN, FAIR EMPLOYMENT PRACTICE COMMISSION, BOSTON, MASS.

Mrs. MAHONEY. In the brief which I sent you from the Massachusetts Fair Employment Practice Commission I think I really lived up to the word "brief" since it is only 10 pages, and in it I made five points.

I would like to review those five points, taking a minute apiece.

I state in the beginning that this present fair employment practice law in Massachusetts was not arrived at lightly. It was prefaced by the study of three commissions. We had a study in 1940, in the State of Massachusetts, and one in 1944, the first concerning discrimination against just one group, the Negro group; the second including all minority groups, that is a study based on race, religion, and nationality, and both of those studies showed quite definitely, at least entirely to the satisfaction of the commission making the study, that there was considerable discrimination in Massachusetts, and they felt that there should be some legislation—at least a good many of the people there felt there should be some legislation to correct it.

Senator Ives. That was in 1940?

Mrs. MAHONEY. In 1940 and 1944, both under Governor Saltonstall. In 1945, when Governor Saltonstall became Governor, he appointed a committee of four men to study existing legislation in order to point up a fair employment practice law in Massachusetts.

In other words, he started with the assumption there is discrimination. We have got the facts on that through two commissions. We did not have to go over the same ground a third time.

So, starting from them, he had this committee of four men investigate legislation throughout the country, and their feeling was that

the best legislation at that time was the Ives-Quinn bill, and so that was recommended to Massachusetts, and our law is practically a copy of the Ives-Quinn bill but with one very, very definite exception which was made on Mr. Turner's recommendation.

I believe Mr. Turner testified before you yesterday. When Mr. Turner came to Massachusetts and spoke about the Ives-Quinn bill, he said that he thought it would be immeasurably strengthened if the commission itself could initiate complaints. I notice you have that in your bill, S. 984, which I think is an excellent point.

That is the history in Massachusetts: the two studies, first, and then the study of the law.

Then last year in May, in fact May 23 last year, the Massachusetts Fair Employment Practice Act was passed, and in August of last year a commission of three people was appointed. I am chairman; Judge Cohen and Mr. McKenny are members. We did not get under way immediately because we had to get quarters and to start, and so forth, and it was difficult to get a place to set up housekeeping.

Senator Ives. It took them in New York about 60 days to get going while probably doing the same thing, probably, Mr. Turner told us.

Mrs. MAHONEY. They were building on a group that had existed previously, too. We were well under way by November. I have brought accounts of our cases. We have had about a case a day since we have been in existence, and this report covers that.

Senator Ives. That is all in your written statement?

Mrs. MAHONEY. No; I brought that in addition; I thought it was easier to take statistics in a separate dose, and this report is from November 10 to June 6. Just to summarize it briefly, as I said before, we had a case a day. We have settled about 22 a month, so we have a backlog now of about 56 cases, that many that we have to take care of.

Senator Ives. How many in total?

Mrs. MAHONEY. The total is 231.

If you judged any of these commissions, New York, New Jersey, or Massachusetts, on the number of cases, you would not say that they were necessary.

Senator Ives. You mean the commissions were necessary?

Mrs. MAHONEY. I think the number of cases do not indicate the tremendous need for the commission.

Senator Ives. May I interrupt to pose something here? This is apparently more or less conversation between you and me this morning. Senator Ellender has just come in and he will probably contribute more. I just want to point out one thing in connection with this case load. As far as I am concerned, the fewer cases you have the better.

Mrs. MAHONEY. Good.

Senator Ives. And if you did not have any cases and your discrimination was diminishing all the time, your existence would be justified thoroughly.

Mrs. MAHONEY. That is an extremely good observation. May I congratulate you on the very splendid viewpoint, because most people say, after all these complaints about discrimination—I do not think there are 10,000 cases but there are inhibiting factors why people do not come to the commission. They might not know about it. Maybe they do not want the reputation for being troublemakers, and so forth. But

what you say is perfectly true, the fewer number of cases the better. Also, the ramifications of one well-settled case are amazing.

In my statement I mentioned the fact that as a result of just one case that was settled with a very large company that had a great many branches throughout the State, we had a chance through this process, which was the second point I wanted to make, of conference, conciliation, persuasion, which I think is paramount in importance because it allows you to conduct a pioneering piece of legislation in a perfectly pleasant manner, and I think that is important because to anything that is new people have a natural resistance, just through habit. I think that provision that a commission should try to settle the matter through really talking it over is extremely valuable, it seems to me.

This one case which I mentioned, to show what can result from one case, we had a chance during this period of conference and conciliation to talk to the head of the concern and to his personnel director at considerable length on the whole philosophy behind the act, the fact of really nailing what we have said equal opportunity, and so forth, and liberty and justice for all, really come true as far as employment was concerned.

These people seemed to be very much impressed with the thought and they said, "we tell you frankly we have had a policy of exclusion; we are going to tell you quite as frankly that the policy is going to be changed," and they did change it in a big way, taking on the branches, and the reports have come back to us, not through their saying what good boys we are, but indirectly, because as it happens we only had two field investigators so we have not been able to do the careful follow-up on all cases we would like to do, and the testimony on this particular case came simply from outside people.

That is the second point that I wanted to make, the tremendous importance, to my way of thinking, of this initial stage which has proved its worth; because I think I am correct in saying—I know I would have been correct a few weeks ago in saying—that New York, New Jersey, and Massachusetts have been able to settle their cases through that method in the initial stage of conference, conciliation, and persuasion, and unless you were told by Mr. Bustard or Mr. Turner that there has been some changes in that, or by the new chairman in New Jersey—

Senator IVES. Colonel Garside.

Mrs. MAHONEY. Then that is still true, and I think that is their conclusive proof of how very effective that is and that is in your bill.

Senator IVES. May Senator Ellender and I interrupt you now, Mrs. Mahoney? We will have quite a few questions to ask you, between us, and we are not doing this in any way to embarrass you; we are trying to obtain facts.

Mrs. MAHONEY. If I cannot answer, I will tell you frankly.

Senator IVES. What I would like to ask you in that connection is this: I would like to find out, to go back to the number of cases—Senator Ellender has now arrived and he will be interested, I know, in developing the case—the type of cases you had and the results in certain types of cases. I think you said you had two hundred some.

Mrs. MAHONEY. Two hundred thirty-one.

Senator IVES. Now, Senator Ellender, you take it.

Senator ELLENDER. So that is the total number of cases?

Mrs. MAHONEY. Total number of cases, and that means the cases brought in to us by individuals and cases initiated by the commission.

Senator ELLENDER. In what period of time?

Mrs. MAHONEY. From November 10 to June 6.

Senator ELLENDER. November 1946 to June 1947?

Mrs. MAHONEY. Yes.

Senator ELLENDER. How many cases have been disposed of?

Mrs. MAHONEY. Well, I will give you the figures. The closed cases are 154 that have been actually disposed of.

Senator ELLENDER. What did the discrimination consist of primarily?

Mrs. MAHONEY. Primarily discrimination against Negroes.

Senator ELLENDER. To what extent?

Mrs. MAHONEY. To about 80 percent of the cases.

Senator ELLENDER. Eighty percent. What is the population of Massachusetts; do you know?

Mrs. MAHONEY. Four million something or other. About four and a half million.

Senator ELLENDER. What is the proportion of colored to white?

Mrs. MAHONEY. Extremely small—1 percent, I would think; about 55,000. My mathematics are sketchy, but I would not think it would be much more than that.

Senator ELLENDER. What difference do you think it would cause in the administration of this bill if you had 50 percent colored and 50 percent white in Massachusetts?

Mrs. MAHONEY. You mean would there be more or less discrimination?

Senator ELLENDER. Yes.

Mrs. MAHONEY. I would not know. I would be just guessing.

Senator ELLENDER. You have never lived down south?

Mrs. MAHONEY. I have never lived in the South. May I say I think the principle would hold. I do not know that the results would hold, but I think the principle—

Senator ELLENDER. That is what a lot of people think, people who have not lived with it as we have. I may say that to you with all due respect. You northern folks are trying to give us advice on a situation that you have never seen, you have never lived with. You do not know anything about it except what you have read or some propagandist has told you about it.

Now, I expressed the view yesterday, the cases in New York, as well as in New Jersey, as well as in Massachusetts, have been rather small in contrast to what was expected, I am going to ask you, are you not rather surprised at the small number of cases that your board has handled since the bill has been on the statute books?

Mrs. MAHONEY. Yes; I have been surprised.

Senator ELLENDER. Surely.

Mrs. MAHONEY. Because when the bill was proposed, the assertion was made that every lame duck in Massachusetts would blaze a path to our door, and that has not been true. They said that every person who could not get a job or did not get just the job that was the dream of his life would immediately charge discrimination.

Obviously, it has been contradicted.

Senator ELLENDER. Now, to hear and read about the discrimination that exists in the South as against the colored people, I challenge you or anybody else to go down south in plants, sugar mills or similar industries we have there, and find discrimination to the extent that you hear about. You simply are not going to find it.

Mrs. MAHONEY. Well, you know I would be foolish to argue with you about your own State. I think I had better stick to Massachusetts because I know what is going on there.

Senator ELLENDER. I agree with you, and that is why Massachusetts should be satisfied with passing a law to suit its own convenience on the problem. If you have a problem there, treat it in the way you desire, but do not impose it on us.

Mrs. MAHONEY. I think that the people who are testifying here were asked to come and tell this committee their experience.

Senator ELLENDER. Yes.

Mrs. MAHONEY. And all that Massachusetts is saying is that we do not feel that our State is especially benighted. We feel that if there is discrimination in Massachusetts, it is most likely, at least to that extent and possibly more, that it exists in other parts of the country. That is the only assertion our commission has made, and then I did want to tell you the sections of the law that obtain in Massachusetts and obtain in this new bill that I think are advantageous.

Now, there are other angles that I would not presume to talk about because I would not, for instance, when you get into this review of the effect of the law, unless I were a lawyer, I would not attempt to cope with the ramifications there.

But I did feel that I could speak with some degree of experience over this period on the effectiveness of this first device of conference, conciliation, and persuasion which I think is most effective; and the second point that I think is valuable is to be able to have the commission initiate complaints, with certain precautions, of course; and I would like, if I have the time, to explain—

Senator IVES. Take all the time you want.

Mrs. MAHONEY. How we handled that in Massachusetts. I notice in your bill that you accept the signed statement of any commissioner, which would seem to me quite all right.

What we have done is this: The commission, when it has reason to believe that there is sufficient evidence to make a complaint—of course, you have an obligation to your commission not to spend, waste time, in processing complaints that are obviously no good. I also think you have a responsibility to the general public in that you do not want to put people through an investigation if it is not necessary because there is always a certain feeling that if a person is investigated, I mean that a good many of the general public feel there is some guilt there. It does not indicate it, of course, at all any more than any kind of investigation, but still, it is just as well to avoid it unless you have really sufficient evidence to go ahead on and so we have used this scheme.

Let us say, for instance, that we get a complaint that is not presented in the orthodox manner. If your complaint were brought in by a person who would state a case and sign the complaint that something had happened to him and he had been discriminated against—but sometimes a man comes to us either individually or goes to some

interested agency that he might know perhaps better than our commission, such as the Jewish agency, or the Negro agency, or social-service group, or labor group, or some organization of that kind and which in turn might write us and say that "A" had complained he had been discriminated against on some score.

He does not want his name to appear because he has a position in the company concerned; he feels he should have been upgraded. He was not upgraded. He feels that he suffered a loss of going ahead with his career because of his race or color or what have you. He does not want his name to appear because he is afraid he will get a reputation for being a troublemaker.

Senator ELLENDER. In that connection, how many claims have you had where a person was not graded according to—

Mrs. MAHONEY. Very few. But this would operate still, Senator, in another way; it would operate just on an initial complaint that he did not get the job. I happened to use the upgrading because I wanted to bring in the fact that we have not only an interest in the getting of the initial job but also of equal conditions after the person has employment, and so forth.

Senator ELLENDER. What do you mean?

Mrs. MAHONEY. For instance, equal rights, equal pay, equal facilities, equal chances.

Senator ELLENDER. What do you mean, equal facilities?

Mrs. MAHONEY. The same facilities.

Senator ELLENDER. In other words, no segregation.

Mrs. MAHONEY. Of course, there is no segregation in Massachusetts.

Senator ELLENDER. You do not practice that at all?

Mrs. MAHONEY. That would not be one of our problems.

Senator ELLENDER. You do not have to with only 1 percent of the population colored.

In that connection, may I ask you this without desiring to have you get off the subject, because you know in this committee we usually interrupt testimony to get as many facts as we can.

Are you familiar with the administration of the FEPC under Executive Order 41?

Mrs. MAHONEY. Not especially; I have read it over and am familiar with or at least have read its last report.

Senator ELLENDER. But you are familiar with cases handled by the Commission, I presume, in respect to segregation?

Mrs. MAHONEY. Only as I would be reading something. Not from anything I have gone through or experienced, and I think there are different degrees of appreciation in what you experience and what you have read about.

Senator ELLENDER. Now, is it not a fact that the FEPC by Executive order came into being so as to help bring up the economic standing not only of the colored people but of other minority races on a fair level with the whites and other people of our country who were in what may be termed a preferred status in contrast to those who were seeking it; is that not true?

Mrs. MAHONEY. I do not know, but I know that is not true of the Massachusetts FEPC Act.

May I give you an illustration of that. We have had people come to us and say, Now, we are running a concern; we are employing so many people. We are going to employ a certain number of Negroes

and a certain number of Jews and a certain number of other minorities; in other words, a full basis. Their motivation is good. They think they are giving a chance to all these other groups and when they have said to our commission, do you approve of that, we said, no, we do not, because what we are standing for, what this law says is, employment cannot be denied a qualified person on the score of race, color, religion, national origin or ancestry; but you have no obligation to employ anyone who is not as qualified as anyone else. The only obligation you have, accordingly, is not to deny him employment once he is qualified, which I think is a very different thing.

I think the law just in the interest of certain groups is much harder to defend although I do think just so long as you have sore points in the economy and you have people who cannot buy things, you are going to have to support them some way or other.

Senator ELLENDER. The FEPC, by Executive order, did not impose that obligation on the employer but the commission assumed as its duty the right to demand that employers give equal opportunity to all comers and that no person should be denied.

Mrs. MAHONEY. That would be like ourselves.

Senator ELLENDER. Yes.

Mrs. MAHONEY. But the employer could set the employment qualifications, standards.

Senator ELLENDER. That is correct; presumably so. But instead of hewing to that line, the Commission made every effort to break down segregation barriers where it was the custom and where the State laws provided for them.

Now, do you think that was right?

Mrs. MAHONEY. That is not the way we are operating.

Senator ELLENDER. I am asking you if you think that was right. Do you believe in segregation in communities where the people want it, where it is desirable to have it?

Will you answer my question? Just answer the question.

Mrs. MAHONEY. I do not believe in segregation anywhere.

Senator ELLENDER. That is what I expected you to say.

Mrs. MAHONEY. Yes, but I do not feel competent to discuss which was the way another commission conducted its work because frankly I do not know enough about it.

Senator ELLENDER. Let me put the facts to you then. In Maryland, not far from Washington, they have segregation laws. An employer was directed by the Commission to remove a wall separating two sets of toilets, the same kind of toilets, same sanitation, same facilities, the only difference being that one side was for colored, the other side for whites. And the order was issued by this Commission forcing the employer to tear that wall down, although it was the law in Maryland to have it that way for segregation purposes.

Do you think that should have been done?

Mrs. MAHONEY. That was a conflict between the State and Federal law.

Senator ELLENDER. I say, do you think the Commission should have done that?

Senator IVES. As a matter of fact, Mrs. Mahoney, your commission would not have gone at that thing that way, would it?

Senator ELLENDER. I am not asking that.

Mrs. MAHONEY. I honestly do not think what I am saying is too much to the point; I would much rather talk about what Massachusetts is doing.

Senator ELLENDER. Of course, if you were going to limit it to Massachusetts only, I would not blame you for it; but this law that you are now giving your assent to and say it ought to be passed by all means does not only affect Massachusetts.

Mrs. MAHONEY. I think, Senator, some of my personal philosophy in this is that I think people should be treated as human beings and I do not think it makes a great deal of difference at the moment.

Senator ELLENDER. You think we treat them as savages down South? You do not believe we treat them as savages?

Mrs. MAHONEY. I would certainly assume that you did not.

Senator ELLENDER. But you do not believe in segregation?

Mrs. MAHONEY. I do not believe in segregation. I believe if a person is well mannered and decent there is no reason why he should not have the same facilities as anyone else. And I think there is a world of difference in putting up a barrier. You would mind it very much if you were this side of the barrier. So would any human being.

Senator ELLENDER. You think it should have been done by the commission, although the basic reason for the FEPC was to lift the economy of those people?

Mrs. MAHONEY. I am not going to answer what I think should have been done by the commission because I think—

Senator ELLENDER. Do you think it was a proper thing to do?

Mrs. MAHONEY. I think segregation is wrong. I do not know why they acted that precise way in that case.

Senator ELLENDER. Let me put this case to you: There was another case in St. Louis where there were three factories—actually, four factories operated by the same concern. In order to meet the situation and in order to give to the colored people who had applied for jobs equal opportunity with the whites, this concern set aside one factory and said to the colored, "You work there," and the other three factories were worked by the white people. The colored did not want that distinction made. Although they had the same pay, the same facilities, the same everything else, they said, "No, sir, that is not right; we want to work with the whites in the same factories."

Do you think that the commission should have done that?

Mrs. MAHONEY. I do not know because I do not know whether that was the way to handle it or not. I think the people should not be segregated. I think, however, you have to take social situations as you find them and if I were—

Senator ELLENDER. But you cannot do that under the bill.

Mrs. MAHONEY. If I were in charge of the situation or a situation of that kind and I had all the facts at my disposition, I would talk over with my own commission the whole matter and we might not have said that at all. We possibly might have said that this is as far as we can go at this time and still assert the fact that we believe human beings should be treated simply not on the basis of their skin color, but on the basis of their intelligence, their manners, their general social cooperation, their cleanliness, and brains, and all the other factors that you apply in a judgment of any other person.

But I mean, as I say, I would rather not really talk about this other commission because I have not got much time—

Senator ELLENDER. I am not so much interested in what you are doing in Massachusetts because that is your own business, but when you in Massachusetts try to impose your views on us, it is like Russia trying to impose communism on the world. I am going to fight it.

Mrs. MAHONEY. I think you are a little unjust to me.

Senator ELLENDER. Both Russia and Massachusetts.

Mrs. MAHONEY. I have been asked to come up here and report on my commission so that I mean I am just here to tell you what is going on in Massachusetts.

Senator IVES. We appreciate your being here very much.

Senator ELLENDER. I do, too; but I want just to—

Mrs. MAHONEY. You are saying that I know one situation and you know another.

Senator ELLENDER. No, no; the point intended, the next comment that I was going to make to you is this: that while the South fears laws of this character, it is because they are going to be used by the administrators to break down segregation laws to the same extent the FEPC was used from 1941 to 1945.

Now, assuming that this is true, that the same thing would occur, do you believe it is right?

Senator IVES. I would like to take issue with you there, Senator, on that because that is not the purpose of this bill.

Senator ELLENDER. I know that; neither was the FEPC, Senator.

Senator IVES. I quite disagree with you on FEPC; that is the point I have been driving at, between the old FEPC set-up and this particular legislation.

This legislation calls for mandatory conference, conciliation, and persuasion—mediation to start with. There is nothing mandatory in the FEPC set-up on that.

Senator ELLENDER. That is right.

Senator IVES. There is no educational program in the FEPC set-up.

Senator ELLENDER. That is correct.

Senator IVES. Along those lines.

Senator ELLENDER. That is correct.

Senator IVES. And to get back to the St. Louis thing, I did not want to get into a discussion on this. But the impact on this, in my judgment, under the kind of an act as we have here, the imposition of a mandatory conference, conciliation, and persuasion process would have gone a long way toward clearing up the St. Louis matter. Quite obviously, nothing of that type was attempted; it was so perfunctory as to be ineffective. I think that is where the thing broke down. I do not think you can compare FEPC with this proposition before us at all. That is why I have insisted that this is no FEPC.

Senator ELLENDER. Senator, they have the same approach and you are going to find out if ever this bill goes on the statute books—and I hope it never does—that it will be used to the same extent as the FEPC was used to break down racial barriers in the South. There is no question in my mind but that this FEPC bill is directed against the same things, the poll tax and the lynching bills; they are all directed at the South.

Senator IVES. As a matter of fact, Senator, the approach here is utterly different, as I have indicated.

Senator ELLENDER. I understand that.

Senator IVES. As compared to FEPC.

Senator ELLENDER. But why should the Senators from New York and Massachusetts who have FEPC be so much interested in imposing it on other States that do not want it, or leave it to them to have if they desire?

Senator IVES. Because we happen to believe in it, Senator.

Proceed.

Mrs. MAHONEY. I think I was just saying what we did in a case.

Senator ELLENDER. Let me ask you another question. Are you familiar with the circumstances surrounding the passage of this bill in Massachusetts? How was it brought about? With such a large number of colored people there, what pressures were brought to bear on the legislators to enact it?

Mrs. MAHONEY. Well, the colored people were interested in it, of course, but so were the enormous number of other groups in the community.

Senator ELLENDER. Who, for instance?

Mrs. MAHONEY. We had the backing of all the clergy, the civic groups, shall I say, in the State. The hearings on the first bill were one of the most amazing things I ever heard—the quality of people testifying for it and the brilliance of their speeches. It had a very great support in Massachusetts, not only in what you might say the group that would be, perhaps, those who gained the most from it, but I think they were thoroughly convinced in Massachusetts that this is the bill that is advantageous to everyone, that gives the best man the opportunity to get the job and that it was not only living up to our American ideals but just being smart economy and we have had very good support.

We have not had support from everyone. For instance, the Associated Industries.

Senator IVES. Are they still opposed?

Mrs. MAHONEY. As far as I know.

Senator IVES. They are not, in New York, now.

Mrs. MAHONEY. In my brief I mentioned the fact that one of the representatives brought up last fall a repeal of the bill and three others supported him and everybody else was opposed to it. One of the three supporters of the legislative agent of the Associated Industries said he felt that he would have a more effective way of dealing with the situation, and he says very nice things about the commission.

Now, our relations with them have been very friendly indeed. I mean, in other words, it is the type of argument that you can have with people and remain the best of friends. They felt that the education was the better way to approach it. We felt that education and legislation was the better way to approach it, going together, hand in hand. But they have been extremely cooperative. They sent out our materials. They have been perfectly fine. We have not a word of criticism to say against them.

In fact, they could not have been better, and so have the labor unions; and we had very excellent cooperation from the State.

Now, if I may get back to that point—because I do not want to leave that up in the air about what may happen—how a person may bring in complaints if he does not want to sign that complaint if he is fearful because he is afraid that he may be spotted as a troublemaker and lose

his job and wants to remain anonymous. We would not just take his statement without talking to him at length. Either one of our field representatives or a commissioner would see him and after we had determined that he was a responsible person and not a neurotic, which happens occasionally—we have people come to us, and may I say it is occasionally, too—there again a public fear was not realized that there would be all kinds of lame ducks coming, but there have been one or two, of course; and if we decide that a particular person is, we would dismiss the case for lack of probable cause—but if we feel he has a cause and that he is a balanced person, that commissioner would initiate a study of the complaint and that man would not benefit by it at all. What we would do would be to investigate the policies of the company. Of course, eventually he might benefit if his contention were true and the policies of the company were changed.

Now, the second point that I want to make is that I think it is very important that the commission have that right to initiate a complaint because it makes the work so much more direct, and you do not have to go working through other State agencies which, of course, can be done, but is a more indirect way of handling the matter.

The third point that I speak about, that I want to express, is the importance of education, because we are a very small group. We only have two field workers up to date, and with a case a day you can see that they are very busy and the commissioners have been doing whatever we have been doing in public relations.

We have been going in and talking to groups. We have made over 150 speeches in this period of 7 months and we have done that because whenever we have a chance we wanted to be able to talk the law over with people and have a question period.

For instance, if I am talking to a group, I do not talk over 15 minutes and I scramble through the law as rapidly as I can, stressing the points I think more important and then wait for questions, and that has been very satisfactory because people have been able to get a lot of things straightened out in that kind of give and take, but we are stressing the educational program as it is provided by the law through these councils—which is education.

Senator Ives. How many councils have you started?

Mrs. MAHONEY. One, in Springfield; and we have a very well-known Springfield citizen at the head of it, the head of a large manufacturing company.

Senator Ives. Springfield has been quite progressive in other ways, too.

Mrs. MAHONEY. It is the famous Springfield plan in the schools, and on the committee is one of the leaders of that plan—I mean one of the school officials who has been most responsible for it.

We have a very fine group lined up there but we have not even had the first meeting of that council.

Now, we hope to have. What we would like to have during this year—in other words, we will take time away from making all these speeches to go in and organize all these councils and we would like to have perhaps four councils throughout Massachusetts by the end of this year in the larger industrial areas for the reason I think that—well, I am sure that the councils were talked about by both New York

and New Jersey; they have both done a fine piece of work. So I do not think we would have any new angles there.

There was one other point I made in my brief. First, the history of what the build-up for the passage of the act was, then the importance of the conciliation period, the importance of initiation of complaints, the importance of the educational program and may I say I know a little bit more about educational programs than might be evidenced by what I am saying here because I was for 3 years executive secretary of the Governor's Council for Racial and Religious Understanding, appointed by Governor Saltonstall in Massachusetts in 1933 and our work is entirely educational and we did a very effective job, which I will not take time to go into now.

I think that is important and I think it helped in establishing this atmosphere that has been evident in our operations with the FEPC.

I feel that previous education work had a definite carry-over into the present situation and then at the end of the brief I mentioned the various evidence and cooperation, some of which I have covered more or less incidentally as we have been talking together.

Senator Ives. Have you had any occasion to issue any cease-and-desist orders?

Mrs. MAHONEY. No; we have not had to go beyond the conciliatory procedure.

Senator Ives. It has been effective so far?

Mrs. MAHONEY. It has been effective so far.

I will leave this with you, if I may.

Senator Ives. What is the document?

Mrs. MAHONEY. It is a statistical report covering the period November 10, 1946, to June 6, 1947, entitled "Fair Employment Practice Commission—Statistical Report."

Senator Ives. Without objection it will be received as an exhibit.

(The statistical report referred to is on file with the committee.)

Senator Ives. The next question I would like to ask is this: There is a very honest difference of opinion as expressed by Senator Ellender. I try to be fair in my outlook on this thing, as far as humanly possible to be fair, and I recognize this honest difference of opinion. As to the approach which should be made in connection with this type of legislation, I have asked this question before at the hearings, but I am going to ask you—and if you do not care to answer it, you are at liberty to not answer it, certainly. One school of thought is that, as Senator Ellender has expressed, this should be approached State by State, and that that is the way to cure the difficulty with which we are confronted in this instance.

The other is, of course, the Federal approach as is contemplated in this legislation. I would like your comment as to what you think of the Federal as compared to the State-by-State approach. If you do not care to answer, all right.

Mrs. MAHONEY. I think what is going to happen is a State-by-State approach. That is my feeling.

Senator Ives. You do not think we will have Federal legislation?

Mrs. MAHONEY. I do not think we will have it immediately. It seems to me that if we are going to really tackle this whole problem of race relations in this country and our attitude toward minority groups we should have this legislation.

May I say I think it is desirable. I do not see how under the sun we can argue and talk with foreign nations or how we can possibly defend what we do defend—I mean to say we are the type of nation that we say we are and say it and then act differently, and I know the only thesis we can act upon and be consistent is the one I mentioned before that human action or rather that human beings are human beings and should be judged on individual merits, and race, color, religion, national origin, or ancestry makes no difference.

Senator IVES. You favor legislation?

Mrs. MAHONEY. I favor legislation. But if you want me to make a prediction, I do not think it is probably going to succeed immediately.

Senator IVES. The next question I have follows along the lines of the question that was raised here by one of the members particularly and may I inject it in his absence? What do you think of the idea of having this bill so amended as to make it effective fully only in those States which do not otherwise indicate their desire not to have it effective in them?

By that I mean this: There is an enforcement provision in here as you know, a penalty, and the idea has been advanced that if States, the individual States, were left to themselves, given a certain specified amount of time in which to make their decision, to determine whether they desire to have the act fully effective within their border—

Mrs. MAHONEY. You mean they would have to ratify?

Senator IVES. That would be about it, and if they did not ratify fully, it would not be fully effective within their border.

Senator ELLENDER. Only as to penalties.

Senator IVES. I am going to that. Only as to penalties, not the conciliation, education program, everything about the bill that does not apply to all the penalties, but to willful violation or impeding. Only with respect to penalties to be imposed where there is actual violation of the statute itself in the matter of discrimination, or cease and desist orders have been issued.

What do you think of that approach to this, allowing the States themselves to determine whether or not they wanted the enforcement provisions to be effective within their borders?

Mrs. MAHONEY. I think that is good.

Senator IVES. Do you think that would work?

Mrs. MAHONEY. I think it is good for this reason: I do not think that any law that has to do with social problems can operate unless you have public support for it and if you have a law in a State that is overwhelmingly antagonistic it is not going to operate. I mean I just do not think it can, and I therefore think it is much better—I thoroughly approve of the principle, mind you, because I just think that we are making ourselves an awful lot of trouble in this discrimination; I think it is senseless.

I do not mean that we have got to love everybody equally; we would be fools if we did. But we must take them and judge them as individuals according to their merits. You know what I mean.

Senator IVES. The objection that has been raised to that proposal is this: That with the educational and conciliation features only in law, very little attention would be paid to them in those States where the whole idea was not very popular.

Mrs. MAHONEY. Well, look; may I say this. I am just talking for myself—

Senator IVES. Apparently this has not been brought to your attention.

Mrs. MAHONEY. I am not speaking for my commission now. I am speaking merely as an individual.

Senator IVES. I understand that.

Mrs. MAHONEY. I would like to say this: That I think that one reason that the bill has been effective as it has in New York, New Jersey, and Massachusetts is because of the enforcement that is behind this period of conciliation.

In other words, I think that has been recommended very definitely to bring about conciliation. On the other hand, I think all of these three States have been very willing to go along with this law.

In other words, the rank and file of their population or a goodly number of their population—not all of them—are of course in support of this theory. They think it is just fair play, so that I think that you cannot say that if you put the same act into a State that was very antagonistic to it that you would have the same results.

Now I think in any type of social legislation you have to meet the situation where it is and if it is boiling hot, you treat it differently than if it is tepid.

And I think your suggestions as a possibility of going at this thing a little more slowly is good.

Senator IVES. I am not suggesting; it has been suggested here.

Mrs. MAHONEY. And yet it seems to me it may be a very sensible approach. You can get somewhere with education; there is no doubt about that.

Senator IVES. Let us look at it from the standpoint of enforcement. I can see you have not thought too thoroughly about this because it has been thrust upon you.

There is still another approach I have not mentioned.

I mentioned the idea of taking it out completely, the enforcement angle, in those States that did not want enforcement and leaving the conciliation and education.

Mrs. MAHONEY. That is right.

Senator IVES. I have pointed out the charge that has been raised against that idea to the effect that the conciliation and education features would not amount to too much in States where there is fundamental opposition to the act.

There is still a third alternative; we are not left alone with that dual situation. It is possible to have this thing, it seems to me, fully in operation in every State in the Union with all the penalty provisions in it and everything else, and yet in those States where there is reluctance, and I can understand that situation, and where there is opposition, to go far more slowly in the operation of the conciliation and the mediation and the conference program than you would in other States where there is more favorable reception.

Mrs. MAHONEY. That would depend on the person.

Senator IVES. There is no nullification of law there, certainly; it is not a lack of enforcement. It is a matter of the procedure, the speed with which you go at it to try to correct conditions as you find them.

What do you think of that?

Mrs. MAHONEY. There, of course, you are depending on the make-up of your commission; I mean people who would have sufficient judgment and tact and intuition.

Senator IVES. We have to assume that.

Mrs. MAHONEY. To go so far and not to cloud the situation. I think I would agree with that, too.

Senator IVES. I believe it is true that Massachusetts and New Jersey and New York are blessed with commissions of that type.

Mrs. MAHONEY. I think we are. I really do; and I would agree with you. All I am trying to say is this: I do not think you can shove things too far. You certainly cannot shove things against the will of the people when you are dealing with human relations, and if it were definitely the will of the people in a certain State, I think you could shove this entire legislation in either one of the two ways you suggest.

I am sure that the educational program, even without teeth, can be effective. I cannot say how effective because our educational program in Massachusetts—we spent practically no money on, about \$5,000 or \$6,000 a year on that governors' committee that I spoke of. And yet with a volunteer committee—I was the only paid worker, with my secretary—we contacted schools, police, community groups; we had a news letter that appeared quarterly with groups subscribing to it, which all went toward better understanding and good will and respect. I think we did effective work, but of course we did not do it against tremendous opposition because there were many groups in Massachusetts that were all for equality of opportunity and giving people a break and believing that all men—

Senator IVES. Of those three alternatives, which do you think, judging from your observation in this connection—which one do you think is the most suitable to employ from the educational angle at this particular time? I cited three possible alternatives; there may be still others, but at least three I indicated.

Which do you think would be the most preferable of the three?

Mrs. MAHONEY. I would say one of the last two and I honestly do not know which—whether you would have the same provisions with the commission—

Senator ELLENDER. Mrs. Mahoney, as a law-abiding citizen, you would expect that any statute would apply with equal force in Massachusetts, New York, Louisiana, and Mississippi and California. would you not?

Mrs. MAHONEY. I gather there is a certain flexibility.

Senator ELLENDER. The law does not give that leeway that the Senator mentions regarding his third approach. The law is that where there is discrimination, where that charge is made, and where it is shown that there is discrimination, the commission is left with no other alternative than to enforce the law. You would expect the law to be enforced?

Senator IVES. May I answer that? Yes, because yesterday we had evidence from Mr. Turner and Colonel Garside and particularly from Mr. Turner, that one of the great values in this mandatory conciliation, mediation, persuasion provision is there has been the fact that they were not forced immediately to take action, that time was in their corner, time here is fundamentally vital, and it is a fact that they are taking time to mediate, to conciliate; it is in no way a violation of

the law, in no way does it show lack of enforcement. That is what I am talking about.

Senator ELLENDER. Yes; but if any complainants had come in and insisted, they would have had no other alternative unless they desired to blindly not support the law, not enforce it.

Senator IVES. That is an interpretation that has not been placed on it where it has been actually in operation.

Senator ELLENDER. I would like to see the pressure that would be brought to bear on the Southern States by a few miserable uninformed groups in the North if this law were placed on the statute books.

Senator IVES. Well, wait a minute. We are all paragons of virtue, but not uninformed.

Senator ELLENDER. I mentioned no one specifically but the Senator knows what I have in mind. In our seven or eight pivotal States, little groups here and there are just watching for this—

Senator IVES. In answer to that, Senator, I want to point out if you are ever going to get that kind of pressure you are going to get it in New York State and I assume there has been a certain amount of effort made along that line, along the lines you have indicated in the State of New York, and in spite of all that, the commission has pursued the course which I have just indicated here.

Mrs. MAHONEY. May I say a word to compliment the action of minority groups? We have found the representatives of minority groups in Massachusetts extremely reasonable. I think we may be blessed with singularly fine leaders of those groups but I think we have had very few—or none at all—importunate demands.

Senator ELLENDER. Mrs. Mahoney. Before you go, I would like to ask you a few more questions.

Mrs. MAHONEY. Yes.

Senator ELLENDER. You indicated a while ago that you were against segregation of any kind.

Mrs. MAHONEY. That is right.

Senator ELLENDER. To what extent do you believe in social equality between the whites and the colored?

Mrs. MAHONEY. I believe that anybody has a right to choose his friends, to choose for friends any person he wishes.

Senator ELLENDER. You have never chosen any colored as your friends, Mrs. Mahoney, in Massachusetts.

Mrs. MAHONEY. I know a great many colored people.

Senator ELLENDER. Have you invited them to your home?

Mrs. MAHONEY. Yes.

Senator ELLENDER. To your dinner table?

Mrs. MAHONEY. Yes.

Senator ELLENDER. You are one of the few, very few.

Now, Mrs. Mahoney, suppose that instead of having the segregation law in the South as we have, where the local population is almost equal in many of the States, in others where it is 40-60; the North at the time had been able to force its rule on the South and compel the southern people, colored and white, to attend the same schools, to go to the same amusement places and be on an equal social basis, what effect do you think that would have had in the past 75 years in the relationship between the two races insofar as marriage is concerned and living together is concerned? In other

words, the question is really this: Do you not think that such a situation would have created a condition whereby there would be intermarriage between the whites and the colored?

Mrs. MAHONEY. Well, of course, I would not regard that as tragedy if two people wanted to marry. People are seldom married at the point of a pistol. You are not forced into marriage and if people of two different races do marry, that is their business.

Senator ELLENDER. Do you believe in intermarriage of colored and white?

Mrs. MAHONEY. There has been a great deal of the equivalent of marriage. If you look at any group of colored people—

Senator ELLENDER. Of course everywhere, you will find weak white men who have low moral standards; there is no doubt about that. We do not have any white women who have.

Mrs. MAHONEY. I think, Senator, it is unusual for any groups to marry out of their own groups.

For instance, I heard—

Senator ELLENDER. Yes; proceed.

Mrs. MAHONEY. I heard Ethel Alpenfels, the anthropologist in New York make this statement—so amazing to me—and I say I heard her make it, because I know she is an authority and I would not dare make it. I assume it is right if she said it, but she said in the history of this country there has been intermarriage between the northern and southern Europeans to the extent of 15 percent only.

Now, if there is that much, that kind of provincialism, shall we say—

Senator ELLENDER. That is the Caucasian race.

Mrs. MAHONEY. In the matter.

Senator ELLENDER. That is the Caucasian race; I am not talking about that.

Mrs. MAHONEY. I know that, but I say the marriage between Englishmen and Italians and Spanish and so forth has been very limited. I think the more American thing for people to do growing up is to marry the people that they are brought up with, the sons and daughters of father's and mother's friends. But if there are exceptions—

Senator ELLENDER. That is what would have occurred.

Mrs. MAHONEY. But if that occurs, I do not think that it is anybody's business.

Senator ELLENDER. But that is what would have occurred in the South, I am telling you, if the North had kept us under its heel and prevented the segregation laws that have been on our statute books, for instance, since not long after the Civil War, you will agree, I am sure, that continual association between the children of the whites and the colored, where they would have been on an equal social basis, would have led to intermarriage.

Mrs. MAHONEY. I do not know whether it would or not.

Senator ELLENDER. There is no question about it.

Mrs. MAHONEY. May I say most emphatically that I think there are certain rights that we certainly have as American citizens and I certainly think that it is not one usually stated but assumed, the right to marry a person, assuming that—

Senator ELLENDER. I am not surprised at your answer for this reason, that in your great State you have sanctioned the law to permit the marriage between the colored and the whites for quite some time, then some group changed it, had it outlawed, and then some other group came in and had it put back on the statute books, so today in your State marriage between colored and whites is permitted.

Senator IVES. May I interpose a question there, Senator? Excuse me.

Have you ever read "American Dilemma"?

Mrs. MAHONEY. Yes.

Senator IVES. I think you will recall in American Dilemma, which I think by all odds to be the finest treatise ever written on this subject of the actual dilemma which occurs in the United States between what we profess to believe and what we seem to be doing it is pointed out that there is less and less intermarriage between the Negro race and the white race as time goes on; do you remember that?

Mrs. MAHONEY. And the thing of least interest to many, and the most absorbing and I do not know what interest to the whites, that if it were permissible to marry Negroes, everybody would prefer to marry Negroes. I do not see why there should be such an assumption.

Senator ELLENDER. But what causes that, my dear lady, is this: In Massachusetts you have but 1 percent of your population colored, and we in 11 States in the South today have 75 percent of the colored people in the Nation. That is what we have, 75 percent of the colored people of the Nation. You certainly would not expect the whites and the colored to marry in Minnesota or up in North Dakota where you have 400 colored people to about 500,000 whites. You would not expect that. But the point that I am trying to make to you—and this book to which the distinguished Senator refers—and which I did not read—

Senator IVES. I will let you have my copy.

Senator ELLENDER. Yes; I would like to read it.

Senator IVES. You would.

Senator ELLENDER. But the point I am trying to make is that if this social equality had been practiced from the days of the Civil War, in the great State of Massachusetts, you would not have the State you have there now by any means; I know what I am talking about, comparing the situation with other Southern States.

Senator IVES. Senator, may I interpose another point here? I happened to be the first one to testify at these hearings and I tried to emphasize in that testimony along the line of questions you asked me, that this legislation does not deal with social equality or anything of that kind; it deals primarily, fundamentally, and completely with the right to work.

Senator ELLENDER. Yes.

Senator IVES. Without regard to race, color, religion, national origin or ancestry.

Senator ELLENDER. That is what you say.

Senator IVES. I did; and I stick to it.

Senator ELLENDER. Sure, and that is what the FEPC was intended for but it was used to break down these barriers as I have tried to point out, and except for those barriers that we have established in the South—

Senator IVES. You gave me quite a grilling as a matter of fact.

Senator ELLENDER. You would have had a different bill written than the one the distinguished Senator from New York has submitted to you.

Let me point this out to you—but you tell the friend of yours you mentioned, the anthropologist—of course, I am not an authority on anthropology but I have studied quite a bit of it; I have also studied history, plenty of it, and you know, if you just trace back that Egypt was an Aryan race at one time—white, Caucasian.

When its Kings brought Negro slave labor from Ethiopia to help build the pyramids and to do the heavy construction work in Egypt, there followed intermingling of the Egyptians with the colored, and if you recall the historical social facts, you will find that in less than 50 years after that was permitted, the King issued an edict and Egypt passed a law making it a crime punishable by death to allow any further migration from Ethiopia into Egypt. But it was too late; in less than 400 years Egypt's destiny was doomed. And where is Egypt today as a cultural nation? All of its progress was registered prior to the mixture of its race.

Consider Brazil in South America: It is much older than the United States. There are more resources than in this country. But what happened there? When the Europeans landed in Brazil, instead of bringing their families with them, they intermarried with the Indians that were there; they mixed with the slaves that had been brought there and today Brazil is a nation of a mongrel race depending on the United States for much of its support.

A while ago you mentioned our trying to practice in this great country of ours what you would expect to be practiced in other countries, and yet just stop and think of this, that the whole world today is looking to America for succor, for aid. Are you not proud of that? Do you not think that has come about through the advancement made by the Caucasian race in this country.

Mrs. MAHONEY. I do not think the Caucasian race has an edge on everything. We could debate that forever. You would find, I think, that I could marshal good support for the contention that out of any group you would find the superior, inferior, and the average and that goes for intelligence tests given to Negroes and whites by very leading anthropologists, psychologists, and so forth. You can disagree with the figures; they are there. But what I wanted to say a minute ago, which I think is of more importance, is that it seems to me that we are dealing with an issue now at hand. That issue is discrimination. What you say, Senator Ellender, may happen; you do not know.

Senator ELLENDER. No; I do not know. But I base it, Mrs. Mahoney, on conditions in New York—just think of the million and a half people—

Senator IVES. We are getting along all right up there.

Senator ELLENDER. Yes; but just think, there are over a million and a half people in this country, particularly in the State of New York, who now think, today, that Father Divine is a god.

Senator IVES. Now, wait a minute.

Senator ELLENDER. That is what social equality leads to. You read my speeches in 1938 and 1939 on the question, Senator Ives, and you will see why I am so much interested in this question.

Senator IVES. My good friend, I do not know anything about the statistics regarding Father Divine, but I question that he has that high number of followers.

Senator ELLENDER. He may not have that many now because as a father he has been booted around quite a bit, but at one time, back in 1938—you want to read the discussion on it.

Senator IVES. We have gone off the track here; we started in with labor and we are now on religion.

Senator ELLENDER. One other point that I want to make is that to have people of that kind and thought to intermarry with the whites would produce a mongrel race in less than 400 or 500 years. Of course, we will not live to see it, but our fate would be no different from Brazil's, Egypt's, or India, which, too, was an Aryan country at one time.

Mrs. MAHONEY. Of course, unless we had a chance to have a long talk together, since we are starting here and here, that we are going to get not too close together on that field.

I just would reassert my feeling that there are good, bad, and indifferent in every group, and marriage is a personal affair, and that is not what is going to happen anyway, in my opinion, although I would not regard it as a tragedy if people of different races wished to marry.

Senator ELLENDER. You do not think it would be a tragedy to our country?

Mrs. MAHONEY. No; I do not think it would be a tragedy to our country.

Senator IVES. I take it, Mrs. Mahoney, that you and Senator Ellender just agree to disagree.

Mrs. MAHONEY. Yes.

Senator IVES. Now, before you leave, may I ask you just one or two questions? Perhaps this should have come at the head of your appearance here, and they are not being asked for any reason of embarrassing you but rather to have the record show the background of our witnesses here.

What experience have you had prior to your chairmanship of the Massachusetts commission—that is, your background in education and the experience you had in this discipline especially?

Mrs. MAHONEY. All right, going backward from my job, executive secretary for the Governor's Committee for Racial and Religious Understanding. The job that preceded that: State supervisor of the national citizenship education program; and before that I taught in various schools around Boston, mostly on a part-time basis.

I am a married woman with jobs more or less on the side until these three very fascinating ones came along, all full-time. My husband has been tremendously interested in these fields, or this field, for years and years.

Senator IVES. What background in education?

Mrs. MAHONEY. I went to boarding school first, then Boston University and graduated; then obtained my master's from Radcliffe.

Senator IVES. We appreciate very much your coming here and letting us grill you the way we have, and at the same time I want to congratulate you on the job you are doing in Massachusetts.

Mrs. MAHONEY. It has been a pleasure to be here.

Senator IVES. I believe an arrangement has been made to make a shift of Mayor Humphrey in place of Mr. Barbour, so if Mayor Humphrey will appear here now and Mr. Barbour will follow him, we will continue.

Mayor Humphrey.

Excuse me. Mrs. Mahoney, your statement will be incorporated in the record at this point.

(Mrs. Mahoney submitted the following brief:)

THE MASSACHUSETTS FAIR EMPLOYMENT PRACTICE COMMISSION PRESENTS BRIEF IN FAVOR OF S. 954

It would seem to me that there are two questions before this committee, namely: 1. Is there a need for a Federal antidiscrimination law? and 2. If there is a need is Senate bill 984 the proper answer to the problem?

As to question 1: Is there a need for a Federal antidiscrimination law? Public opinion surveys as collected and studied by leading psychologists show that prejudice is expressed by about 85 percent of our American people. If this is the way we Americans feel, surely we are going to reflect that attitude when we are in a position to hire others. I think every thoughtful person knows that prejudice exists; that it is nothing new; and that if we are to lessen the effects of it in the near future we must at least try to limit its manifestations. Four States nearby have felt that discrimination was sufficiently evident within their borders to warrant the passage of fair employment practice legislation. Perhaps since I am representing the Massachusetts Fair Employment Practice Commission, I had best limit my comments to that State.

I can assure you that this present fair employment practice law in Massachusetts was not arrived at lightly. It was prefaced by the study of three commissions. The Massachusetts Commission on the Employment Problems of Negroes was created in April 1940 by the action of Governor Saltonstall. A thorough study of the situation in the State was made. The final report showed the extent of Negro employment in industries within the State, the types of employment, Negro representation in the organized labor movements, and the attitude of employers toward Negro workers. The survey covered firms in Greater Boston, Cambridge, New Bedford, Springfield, and Worcester, the areas of highest Negro population. In addition samplings were taken elsewhere. Altogether 918 business establishments were contacted and 558 replied.

"... The integration of Negroes into all phases of the industrial work pattern of the Commonwealth becomes a problem because under normal conditions the Negro workers may not hope to compete on equal terms with other workers in the labor market."

This commission stated flatly that they considered the Negro was being discriminated against and made a number of recommendations. This study was limited to a study of discrimination as it affected this one group in our State. It was followed 4 years later by a report of the special commission relative to the matter of discrimination against persons in employment because of their race, color, religion, or nationality. This special recess commission created in 1943, by Governor Saltonstall, reported in December 1944 to the legislature:

"It is evident that in many directions there are practices of racial and religious discrimination in employment. Many leading institutions, public and private, even at this late date, in their application blanks for such positions as clerks, cleaning women, stenographers, firemen, engineers, janitors, etc., continue to require an applicant to answer questions which disclose religious affiliations and racial origin. The same is true in many personnel departments of our public utilities, employment agencies operating under the license of the Commonwealth also are assisting in this practice. ... We have examined the legislation and practices employed or proposed in other jurisdictions dealing with this evil. We have come to the conclusion that in the public interest we should have some legislation and appropriate machinery to protect those who are thus discriminated against."

The majority of this committee recommended an act to amend the civil-service law in relation to appointments, but a minority report was submitted proposing a fair employment practice act.

I have reviewed briefly the findings of two commissions, one of which studied the employment problem of the Negro only, the other the patterns of discrimina-

tion as directed against people on the basis of race, color, religion, and nationality. In November 1945 Governor Tobin appointed a committee of four to study legislation designed to eliminate discrimination in employment because of race, color, or religion and stated that he intended to use the recommendations made by this group of four as a basis for legislation which he would submit to the legislature of 1946. The present Massachusetts Fair Employment Practice Act was passed on May 23, 1946, and closely follows the Ives-Quinn bill of New York as was recommended by this committee of four.

Massachusetts under two governors had first studied the problem carefully and had then decided that there was need for legislation to help solve it and stop exclusion from job opportunity. I do not believe that Massachusetts has more need than other States for this type of legislation. As I have said, a very careful study has been made before any legislation was proposed. There followed numerous public hearings, and the bill received hearty support from practically every organization except the Associated Industries.

Since the approach followed by Massachusetts is the accepted approach of legislatures, I presume that similar studies supporting similar conclusions have been conducted by the other States that have passed fair employment practice legislation. I am sure that problems of discrimination are not peculiar to these States but occur all over the country.

May I add just one more amplification of a point already touched upon. The hearings held before the passage of the act were thrilling meetings to attend. The crowd was so considerable that it was necessary to hold them in the Gardner Auditorium, a huge room, which was crowded. Distinguished lawyers, educators, and representatives of all the clergy, besides the representatives of all the social agencies of the community were insistent in their demands that we in Massachusetts further implement the Constitution and do all within our power to assure a fair economic deal. A very large segment of the population was definitely aroused to the need for this type of legislation.

So much for a summary of what antedated the passage of the Fair Employment Practice Act in Massachusetts.

Now for a consideration of the second question as to whether S. 884 constitutes an adequate solution. Because of the many features of S. 884, which are identical with our Massachusetts bill I am inclined to believe that it does. You gather that our commission is very well pleased with the operation of our bill in Massachusetts. I know I speak for our whole commission when I say that we feel our bill and the bill you are considering are exceptionally well drawn. They make it possible to enforce a difficult and pioneering piece of legislation and yet avoid being dictatorial about it. One of the most important provisions of our act and Senate bill 884, is the section that demands that any complaint must be handled first by one commissioner, and that it is his duty to try to settle the matter through the methods of arbitration and conciliation. In other words, everyone has a chance to talk things over and any decision is not binding unless it meets with the approval of all parties. Let me give you an example: Miss A comes to our offices and files a complaint, stating that in her judgment, she was discriminated against on the score of race. She applied for a position as secretary, and when she telephoned, she was accorded a most enthusiastic reception; but when she appeared in person, as she was asked to do, the atmosphere became quite different and she felt this was due to the factor of color. The employer in this case agreed that he had hesitated, not that he doubted the ability of Miss A, but he felt his other employees might object. In fact, they showed some signs of doing so. After a talk with the commission, he decided to employ the girl; and when his other clerks learned of this action, they postponed judgment until she appeared, and within 2 days, all the girls were getting on beautifully together. In fact this one case led to a broadening of employment policy; not alone in that office, but in all the branch offices of this large concern. It is not always so easy to detect discrimination; nor is it always possible to find a prospective employer who will state his objections with candor and then be broadminded enough to shift his approach; but we can report a heartening number of such cases. Incidentally without this act, I fear that most of these employers would not have considered the matter at all, but would have just continued their usual habit of hiring the friends and relatives of previous employees, and these first employees might have been selected with the consideration of race, color, religious creed, national origin, and ancestry much in mind. The very passage of a Fair Employment Practice Act is educational because people are forced to give this matter of discrimination serious consideration. But the point that I especially want to make here is that it is demanded that before a final decision everything possible must be

done to settle the matter amicably by a meeting of minds arrived at through arbitration and conciliation. I believe this method to have great merit. So far our commission has not needed to go beyond this initial step.

I note, too, that in S. 984 you accept any signed complaint made by an individual or by a commissioner. I think it is important to allow the commission to investigate a case through the signed statement of one of its commissioners providing of course that he feels that he has received sufficient evidence to make him feel that there is really ground for a complaint. In Massachusetts we can also initiate complaints through the commission, but our approach is somewhat different. In our policies, we state:

"The commission may issue a complaint—

"1. When it is made cognizant of any violation of the law as outlined above under A or of any provision of the act;

"2. When it is made cognizant of—

"(a) the printing or circulating of any advertisement for help which directly or indirectly specifies any limitation because of race, color, religious creed, national origin, or ancestry which comes within the scope of the law; or of

"(b) any employment application blank which asks questions directly or indirectly regarding the race, color, religious creed, national origin, or ancestry of any applicant for employment unless based upon a bona fide occupational qualification."

I should like to add just a word in amplification of how the commission may file a complaint. May I give another example? Let us say that any organization gets in touch with us, and states that Mr. B called at their office and said he felt he had been discriminated against on the score of religion in that he had not been upgraded when, in all justice, and according to the length of service given, and the number of sales made, etc., he rated the advancement. Since he is working in this certain establishment, he did not want to have his name appear, because he felt he might get the reputation of being a troublemaker. In a case of this kind, we would say to this organization or any other accredited organization that approached us that we would be willing to consider the case provided we might send one of our field investigators to interview this man. If, in the opinion of our investigator, he had a real grievance, a commissioner might act on the strength of that testimony; or the commissioner might want to get in touch with the man himself. But in either case, if the man made an impression for truthfulness and mental balance, the case would go forward under the direction of a commissioner who would ask for an investigation of the policies of that concern—not in relation to the complainant because he would remain anonymous as he had requested, but an investigation of the hiring, upgrading, and other employment policies of that firm.

In this manner a citizen who feels a duty to the Fair Employment Practice Act and the State that has put it on its statute books may call attention to a breaking of the act and the commission acts if it feels he presents sufficient evidence. He gains nothing from the investigation personally unless a reform in the employment policies may later affect him in an advantageous way.

You will hear it said that the best way to settle this matter of discrimination is through education. The members of our commission are agreed that that is the most advantageous long-range program. But it need not be an exclusive program. It is perfectly possible, and in fact eminently to be desired, that a program of education be conducted at the same time that the enforcement provisions are operating. I want to spend more time a little later on the educational phases of the work as provided in your S. 984 which parallels the wording of that section in our Massachusetts law, but first I should like to sum up the feeling of the Massachusetts Commission concerning enforcement. For present relief something more than an educational program is necessary. This something more we term "enforcement" which may be one of two kinds or both. These two kinds are: (1) Arbitration, conciliation, mediation in the first instance when one commissioner is dealing with the case; (e) a formal quasi-judicial system which embodies both the conference approach and a judicial review. This latter pattern appears if it is necessary to refer the case to the other members of the commission because the first commissioner has been unable to arrive at a satisfactory meeting of minds.

Although neither Massachusetts nor any other of the States in the East have needed to my knowledge to enter into this second stage, the very fact that it is part of the procedure, falling settlement by the first commissioner, has doubtless had its effect and has helped to make possible the really remarkable record of cases settled through conciliation alone.

IMPORTANCE OF EDUCATIONAL WORK

I have spoken (1) of the importance of conciliation and (2) of the power given the Commission to instigate a complaint. The third item that seems to me of great importance is education.

I shall not presume to talk about an educational campaign as carried on in Massachusetts through fair employment practice councils because we are just making a start. The start, however, is a highly auspicious one. We are now in the process of organizing a council in Springfield. Mr. Roger Putnam, president of the Package Machinery Co. has agreed to act as chairman. We have high hopes for this, our first council. New York and New Jersey have been so successful in the work carried on by their councils that I am sure they must have given you a full description of their activities and what ones seem most helpful.

SOME EVIDENCES OF SUCCESSFUL ADMINISTRATION OF THE FAIR EMPLOYMENT PRACTICE COMMISSION IN MASSACHUSETTS

Since there was little enthusiasm evinced by industry about a prospective fair employment practice commission, I wish I might say that the commission after its appointment has been deluged with letters from industry stating that they now approve the act and feel that business had been benefited thereby. This has not occurred, although some businessmen have written to the commission and complimented individual commissioners upon the fair manner in which they conducted their meetings with respondents. The commissioners have spoken before about 150 meetings and the majority of them have been made up of businessmen and women. The reception accorded the speakers has been graciousness itself. The question period has been highly stimulating for the speaker and I think of almost equal interest to the audience. All this has helped, in the opinion of the commission, to establish a mutual understanding. Few people will take the time to study carefully a law, but lots of people will take the time to ask questions, especially if a brief speech explaining the philosophy and the workings of act has prefaced this question period. Besides these contacts established through talking with groups, the commission has met with small groups at the office of the commission and our willingness to discuss issues has been approved by the people with whom we met. In fact we have felt that it was part of our job to take every opportunity to act as interpreters of the act. It may seem odd to cite as further evidence of support for the act that it was suggested this fall by a member of the legislature that the act be repealed. This representative at the public hearing which followed his proposal was supported by three other people, making a grand total of four, as against everyone else in the hall in as far as could be determined, and the crowd present numbered about 600. Person after person testified for the commission and these people represented all types of organizations, including labor groups, veterans and community groups and all the clergy of different denominations. I wish I might add that the Associated Industries that I have previously mentioned as opposing the bill, appeared at this hearing in favor of the act but this was not the case. Their representative advocated repeal, but went on to say that so long as the act remained on the statute books the Associated Industries would support its provisions and that they had no criticism of the commissioners themselves but simply did not think that the act itself was the proper and best approach to the problem. They have been very true to their word and no group has given the commission greater help in distributing copies of the summary of the act and copies of the policies drawn up by the commission. Many other groups have also helped in this way. Included are the AFL and the CIO, community groups and many other interested agencies.

The most conclusive proof of the success of the act in Massachusetts would be to cite the number of industries that previous to the passage of the act practiced discrimination and now do not. This I cannot do, because we do not reveal the names of companies which have appeared before us and, too, other companies may have changed their policies without presenting us with evidence of this change. But I can say that we know of many concerns that have apparently widened their employment policy since the passage of the act. At least members of minority groups are now being hired by them, whereas previous to the Fair Employment Practice Act, they had the reputation of using at best a sort of quota system to guarantee that a few representatives of minority groups would appear on their pay rolls. Now they seem aware that hiring should not be done on that basis at all but the best man should get the job irrespective of

race, color, religious creed, national origin, or ancestry. We feel that these concerns are glad to do this, and do not regard complying with the act as a hardship.

You gather that we feel that on the whole the atmosphere throughout Massachusetts has been cooperative which must be so if the act is to succeed. Public opinion can make or break any law because law in a democracy depends in the last instance on the support of the people. This is hardly news to a group of legislators.

MILDRED H. MAHONEY,

Mrs. John J. Mahoney,

Chairman, Massachusetts Fair Employment Practice Commission.

STATEMENT OF HON. HUBERT H. HUMPHREY, MAYOR, MINNEAPOLIS, MINN.

Senator IVES. We will start you off right. What is your background?

Mayor HUMPHREY. My immediate background? I am mayor of Minneapolis, Minn., recently elected. I am appearing here in that capacity and as vice chairman of Americans for Democratic Action.

Senator IVES. What is back of that? What is your education? How did you get interested in this thing?

Mayor HUMPHREY. I am a graduate of the University of Minnesota and I have my master's degree from the University of Louisiana.

Senator ELLENDER. You don't say.

Mayor HUMPHREY. A very wonderful school.

I remember you, Senator, too.

Senator ELLENDER. How long did you stay?

Mayor HUMPHREY. From 1939 to the fall of 1940.

Senator ELLENDER. It is not so bad down there.

Mayor HUMPHREY. I enjoyed it very much. In fact, I have many friends down there.

Then I did additional graduate work in the University of Minnesota toward my doctor's degree and following that I was with the War Manpower Commission, Federal Government. I was an instructor at the University of Minnesota in political science, professor of political science at a college in St. Paul and from there I became mayor of Minneapolis, and this is the beginning of my second term. I have just finished an arduous campaign.

Senator IVES. How do you like being mayor?

Mayor HUMPHREY. I like it. I like politics.

Senator IVES. That is good. People like you ought to be in it.

Go ahead.

Mayor HUMPHREY. Well, my interest in the proposal that you have, Senate bill 984, comes from my particular concern and interest in the whole field of intercultural relations and fair employment practices, and just the fulfillment of the development of what we call our democratic ideals into democratic realities.

I am familiar with the book, American Dilemma, and I agree with you it is one of the outstanding treatises upon that particular subject and I think it proposes a big challenge to American people.

Senator IVES. It does.

Mayor HUMPHREY. And has very full ramifications.

Senator IVES. Very thought-provoking.

Mayor HUMPHREY. Yes; it is. We had to wait for a good Swedo to do it, but we have a lot of those out in Minnesota, and we are pretty proud of the fact that a Swedo wrote it.

When I became mayor of Minneapolis, one of the first commissions I established was one known as the mayor's council on human relations, and the mayor's council on human relations was the product of a good deal of thinking and study in this field of employment and general intercultural relationships and group relationships in our community; and if I may take the liberty, I would just like to say a few words about that particular council because from its work we were able to pass an ordinance in the city known as the fair employment practices ordinance. We also established a fair employment practices commission and by the way, all of that is included in my testimony, gentlemen, that I presented to your subcommittee and I trust will be in the record, and I am not going to take the time today to read that.

Senator IVES. Is that a written statement?

Mayor HUMPHREY. Yes; it is.

Senator IVES. Without objection, that will be inserted in the record, to follow your testimony.

Mayor HUMPHREY. It is chaired by one of our leading young men in Minneapolis, the son of the Governor—rather, the brother of the Governor of the State of Minnesota. The gentleman's name is Ruben K. Youngdahl, very prominent in the Lutheran clergy. Other members are Vice Chairman Theodore Bramwell, College of Education, University of Minnesota, one of our distinguished educators at the university. Other members are the editor in chief of the Minneapolis Daily Times, an outstanding newspaper, an outstanding citizen, Mr. Bradley Morse. We have had the assistant superintendent of the schools, Mr. Walter Anderson who, by the way, is going to your State; you are doing quite well, you took Theodore Bramwell and you are taking Walter Anderson.

Senator IVES. We have some pretty good educators in—

Mayor HUMPHREY. Are you taking some of ours away? The attorney for General Mills, Edward E. Balch; R. R. Bragg, who was of the Unitarian Church—he went to Boston; we lost him. But we have a replacement, a very fine lady of the Catholic faith who is taking his place.

We have attorneys from the CIO and representatives from the AFL. We have representatives of the Jewish people, the Negro people. One of our leading businessmen, Mr. George M. Jensen, director of Nash-Kelvinator Corp.; and then there is Stuart Lake, of a large construction company. We have Judge Edward F. Waite, a retired district court judge, one of our distinguished citizens. We have members of the city council, Mrs. Emma J. O'Brien, fine businesswomen of Minneapolis; we also have Mr. Cecil Newman, editor of the Minneapolis Spokesman, a Negro publication, who is a very distinguished citizen of our community; and we have 16 members in all.

Now, this group has been setting itself to the job of doing an honest and sincere program of analysis and study of our city. Minneapolis has said, gentlemen, that we are taking a look into the mirror. We want to see our own reflection; we know that we have things in

the community in all aspects of our life that are not beyond reproach, and we would like to improve it a little bit, and we feel the only way to do it is to make an analysis of our own particular problem.

I surely concur with what Senator Ellender says. Those of us from Northern States take a view of the problem of racial discrimination just a little bit different than our friends in the Southern States. Our problem is not as intense. We recognize that.

Senator ELLENDER. You were in Louisiana for 2 years?

Mayor HUMPHREY. A year and a half.

Senator ELLENDER. Well, the people of both races lived together pretty well, and agree amicably, do they not.

Mayor HUMPHREY. Yes; the people seem to get along very nicely. I have some comment about that. I will be very frank about that, Senator. I have a great admiration for the people of Louisiana. I just think that they are actually injuring themselves by not permitting, to let all people regardless of their race, their color, national origin, or ancestry to fullest participation in the civic life of this community. The only people that suffer from this—in terms of our colored people—it is not the colored people that are suffering; it is the white people.

Senator ELLENDER. You would advocate that there be social equality?

Mayor HUMPHREY. I am, Senator, and I am not going to be taken off the track one single minute. I am not a psychologist, not an anthropologist. If I have any background at all, it is in political science and social studies.

I am here to discuss Senate bill 984, and that bill says to prevent discrimination in employment because of race, religion, color, ancestry, and I am going to stick to that.

Senator ELLENDER. If you care to express your view——

Mayor HUMPHREY. I will if they have another Senate committee to discuss social equality.

Senator ELLENDER. You do not want to do it before this committee.

Mayor HUMPHREY. I want to direct my effort to this particular bill. You know, I think this bill is well drawn; I think it is an expression of real study on this problem. I think it is beneficial. I think it shows the benefits and our experience of background with the old FEPC Commission; I think it also takes into its confines or its language the experience of other States and municipalities, and the authors of this bill are to be highly congratulated. This is exemplary pending legislation, and I think we ought to stick right to it, because I have read the bill very carefully and I have read about its court procedure; I have read, for example, about the regionalization of its examiners; of the references to the district courts.

It seems to me that every point has been given very fine consideration, and it is on that basis that I want to talk about employment. I think this is part of our full employment program.

Senator ELLENDER. Of course, I do not care to discuss it with you if you do not want to, but the point I have made on many occasions here is that although this is labeled an employment bill, that it is going to be utilized to the same extent as the FEPC has been to break the barriers of segregation in the South.

Mayor HUMPHREY. I do not see very many ghosts under the bed and I think we have got to accept men at face value.

Senator ELLENDER. I know you do not. Nobody said that was the intention of the FEPC but its interpretation is what gave rise to opposition. When the FEPC was first organized by Presidential order, there was some opposition but not as grave as it grew as later when its opponents found out that it was being used to break down barriers which some sections of the country thought necessary for the best welfare of all.

Mayor HUMPHREY. Senator, I want to say I am not a prophet and I cannot look into the crystal ball and see what may be the innuendoes and undertones of this pending legislation.

All I want to say is that in looking over the bill and studying its provisions and its articles, that I think I have information which will fortify the authors of this bill and will make a plea for enactment of it on a Nation-wide basis.

Senator ELLENDER. Do you think that the bill, or the FEPC as it was operated back in 1941, should have been administered so as to break down legal barriers of segregation that some States have on the statute books?

Mayor HUMPHREY. Senator, I am going to be very concise. I do not think there ought to be any barriers in employment. That is the issue today. We are not discussing the whole program, the whole ramifications of the social structure of America. I would be glad to appear on that.

Senator ELLENDER. How many colored people are there in your area?

Mayor HUMPHREY. There are 16,000 in Minneapolis and in St. Paul.

Senator ELLENDER. And about how many people, 800,000 population?

That is about 2 percent. What if you had a 50-50 ratio?

Mayor HUMPHREY. Discrimination for one or a hundred is just as bad.

Senator ELLENDER. Would you be as vociferous about it?

Mayor HUMPHREY. If I were a good politician, I would be. I do not have to say such things in Minneapolis because the people there believe these things.

Senator ELLENDER. I believe you that it is political. You may have greener fields than Minneapolis.

Mayor HUMPHREY. All I am running for is mayor.

Senator IVES. Just one point before you proceed, Mayor Humphrey. Were you here when I raised this question about the former FEPC set-up as compared to the provisions of this bill?

Mayor HUMPHREY. Yes.

Senator IVES. Did you hear the questions that I raised on the difference between them?

The FEPC, as I recall, had no provision for mandatory conciliation and persuasion, and so forth, no educational program indicated in it as such; there is a vast and fundamental difference between the FEPC approach and the approach in this bill; do you not agree?

Mayor HUMPHREY. I agree with you very much.

In fact, the mandatory conciliation feature of this with the ultimate of enforcement as the final weapon is the exemplary part of the proposed legislation, and it takes—as mayor, as a public official, I am a law-enforcement agent, too; I appoint our chief of police, and so on, and I know that in the field of law enforcement today it is not

force that counts. Force is the ultimate weapon, just as it is in diplomacy, and what we must work for is law observance and understanding. In fact, the knowledge of the community, the psychology, knowing the psychological relationships, are as important as knowledge of the law itself.

And in this legislation I see, with the mandatory features of conciliation and persuasion and your educational programs, not only enforcement which could, if it were just slap-back enforcement, defeat its own purpose.

This is a type of legislation which paces itself automatically. It is so flexible that it can be used in one area in one manner and in another area in another, and, at the same time, it has the obligation of enforcing the law—every one of us.

Senator Ives. That is very well expressed.

Mayor HUMPHREY. Well, I have the situations in labor disputes and others. It is all a matter of being able to work things out, to talk things out, but also recognizing that you have the responsibility, ultimately, as the law-enforcing agent, of doing your job and fulfilling your obligation.

Any dummy can go out and enforce a law, but it takes someone of intelligence and patience and understanding to get law observance and to have people who will do the thing because they begin to understand, and most of our problem today is lack of understanding. It comes from innate prejudice that we have had bred along with us; and if we break that down through this type of legislation which is just another block, you may say, or pile or pillar in what we are trying to build in this country which is a democracy—I mean that is a challenge. Our democratic ideals are challenged. But we have not lived up to them as yet, but I like it that way. It just gives us something to work for.

I do not think this legislation is going to eliminate discrimination overnight, but I think it gives the means and the weapon and the avenue and the mechanics to do the job of eliminating the discrimination in employment, and I think that is going to make America richer.

Senator ELLENDER. Richer than she has already grown?

Mayor HUMPHREY. Definitely.

Senator ELLENDER. Is it your contention that we would have come along much better had we accepted this idea long ago? I think if the South had not practiced segregation as it did, and had had more or less social equality between the races, that we would not have grown to the extent we have.

Mayor HUMPHREY. I am not discussing the question of social equality. I am saying that if the South had never—or America had never—let us not regionalize or sectionalize.

If the United States of America had at no time practiced discrimination in the employment of its people, our productivity would have been greater today, the general welfare of our people would be better, the standards of living would be better, higher, our technology would be further advanced, and our country as a whole would be better off.

Senator Ives. Well, in our spiritual and moral tone we would be better off.

Mayor HUMPHREY. Right; much better off. We have had problems of unemployment, but the problems of frustration in employment are as bad as unemployment.

Senator Ives. We got you way off the track here. But it is quite pertinent.

Mayor HUMPHREY. I was going to say that following the work of our mayor's council on human relations in Minneapolis, we took, Senators, what we call a community self-survey, and I brought a report here of the whole activity of our mayor's council on human relations plus the project that we have under way and the analysis of our community self-survey on human relations in Minneapolis.

This is the most extensive survey that has ever been conducted in any city of the United States, and we are pretty proud of it. We had over 700 of our people in Minneapolis doing this survey work, and the survey was under the chairman, vice president, and general counsel of Pillsbury Mills, one of our leading businessmen, and one of America's leading business firms. We had men like the dean of the graduate school of the University of Minnesota; also Helen Fink, one of the fine women of Minneapolis; a representative of the railroad brotherhoods; the vice president of the Minneapolis-Honeywell Corp. That was the steering committee, and then we divided our workers up into employment, housing, welfare services, hospital services, and general employment practices in the city; we went into every area of our community life to find out just the type of discrimination that existed, and we paid particular attention to the employment situation.

Well, from that community self-survey and the work of the Mayor's Council on Human Relations, on January 31 of this year, a fair employment practices ordinance was passed and enacted and as mayor I appointed the five members of the commission. The commission is in operation. The commission is doing very much the same thing, may I say, on a local basis that you contemplate in the bill that you have before you.

Senator Ives. I would like to raise a question there. Has anybody in New York State been in touch with you to make inquiries concerning your experience in Minneapolis?

Mayor HUMPHREY. Not with me personally. I think it would be a good idea if they did. Yes; it would be.

Senator Ives. The council plan has been pretty well developed in New York and I think your experience would be very helpful to them.

Mayor HUMPHREY. That is fine. We certainly shall get in touch with them, too. We are the only city, Senator, that has the commission, the actual FEPC commission established.

Senator Ives. New York City has one, you know; not a commission but an advisory council.

Senator ELLENDER. Have you legal status?

Mayor HUMPHREY. Yes, sir; we have.

Senator ELLENDER. From the State?

Mayor HUMPHREY. Legal status under what we consider to be the general welfare clause of the city charter, upheld by the attorney general of the State.

Senator ELLENDER. No particular law.

Mayor HUMPHREY. We have no State law. We have not attempted a State law in the recent legislature. The Governor was forceful in his sponsorship of it and people from all walks of life supported it. It was the first attempt and we had a remarkably good acceptance of it.

Senator ELLENDER. What brought it about?

Mayor HUMPHREY. Just general interest in improving the well-being of our people. We have civic-minded people.

Senator ELLENDER. Did anybody ask for it? Was there any pressure brought to bear for the council to be formed?

Mayor HUMPHREY. You mean in Minneapolis?

Senator ELLENDER. Yes.

Mayor HUMPHREY. Pressure brought to bear by the mayor of Minneapolis who has a conscience on these matters. I am being very sincere and honest with you; I happen to believe that the city of Minneapolis cannot afford the waste and extravagance of having a certain number of good citizens relegated to inferior positions in the employment field in the city of Minneapolis so they cannot support themselves.

Senator ELLENDER. You were not asked by any to do so?

Mayor HUMPHREY. I should say I was not. In fact, if you wish to know, the colored people have said, "Do not make it an issue." I said, "I do not care whether you want it an issue or not. I am going to be mayor of Minneapolis and that means all the people of Minneapolis, not the half or nine-tenths that happen to believe it; it is not just for the colored people"; and I say that these hearings ought to branch off into something more than Negro and white people.

We have Jewish people that were discriminated against. We had Catholic people discriminated against. We have people of other nationalities and religious groups discriminated against and I feel definitely that this bill is not drawn up just on the basis of the Negro-white people.

Senator ELLENDER. Where do you have more discrimination; as to Negro, as to Jewish, or the Catholic or Protestants, or what, in Minneapolis?

Mayor HUMPHREY. I cannot give you the statistical evidence on that. We do have a problem of antisemitism in our city as every other major city has.

Senator ELLENDER. To what extent?

Mayor HUMPHREY. To an extent that is somewhat embarrassing to the municipality.

Senator ELLENDER. How many are there in your city?

Mayor HUMPHREY. How many people, Jewish people are there in Minneapolis?

Senator ELLENDER. What percentage of your population?

Mayor HUMPHREY. About 30,000 people in our city.

Senator ELLENDER. Thirty thousand out of 800,000?

Mayor HUMPHREY. Out of 500,000. There are 500,000 in Minneapolis. When I spoke about 800,000 I spoke about the Minneapolis-St. Paul area as a metropolitan area.

Senator ELLENDER. You said they are discriminated against by whom?

Mayor HUMPHREY. The Jewish people you are talking about?

Senator ELLENDER. Yes.

Mayor HUMPHREY. They have been discriminated against in many ways. In our own university we had only a limited number of people to be taken in as doctors. It is the usual type of discrimination. There are civic clubs where Jewish people are not taken in as members. Those things we are fighting against.

Senator ELLENDER. What about employment?

Mayor HUMPHREY. Definite discrimination.

Senator ELLENDER. What types?

Mayor HUMPHREY. In all fields of employment. There have been restrictive covenants and terms of construction in the housing field, for example, having whole areas or communities into which a Jewish family was not permitted to move.

Senator ELLENDER. What I had in mind in particular was in employment in factories; are these discriminations practiced in factories?

Mayor HUMPHREY. I would say particularly in the retail clerking trades as well as in the professions and in the medical services.

Senator ELLENDER. I see.

Mayor HUMPHREY. It is true of our colored people, for example. We have had hospitals where colored doctors were not permitted to perform an operation or were not permitted to practice their profession. I mean, after all when you are sick you need help.

Senator ELLENDER. Have you any cases where Jews were refused employment in Minneapolis because they were Jews?

Mayor HUMPHREY. Absolutely.

Senator ELLENDER. In factories?

Mayor HUMPHREY. Absolutely; and in retail establishments.

Senator ELLENDER. What kind of factories were they?

Mayor HUMPHREY. I could not give you that. I can get the information if you care for it.

Senator ELLENDER. No; I just wanted to—

Mayor HUMPHREY. Very definitely. For example, some of the gentlemen that are serving on our steering committee of the community self-survey were right from business establishments where there was discrimination right within their own business and that is why we took them because when they face these problems themselves, when they see it from their own business—for example, the head of our housing analysis was the president of the real estate board and we saw that problem. The place to talk about your sinners is among the sinners, not among the saints. And the place to talk about these things is where they have the problem, and we took these to the Real Estate Board of Minneapolis, and we take it right in to the employers, and the unions themselves where there is a feeling of discrimination; we try to hunt out these points of what we call infection because this is a type of infection. It is a discriminatory type of practice which should not be permissible.

Senator, I will go along.

Senator Ives. And I will not interrupt you because we have two more witnesses to be heard yet and we have to leave when the Senate is in session. But you are making a fine presentation.

Mayor HUMPHREY. I also bring along with me today a letter from the mayor's council on human relations endorsing this S. 984; it is unanimously endorsed by our group representing a city of better than half a million people. And I would like to present that letter to the committee.

It is my feeling—I have tried to emphasize this in briefer terms—that the elimination of discrimination in employment is just part of the promotion of the national welfare of the country and the strengthening of our productive and economic processes.

For example, we know as local officials, and I happen to be also chairman of our board of public welfare, that when people are relegated to inferior jobs because of their race or nationality or their religious faith or because of any reason, if the discrimination is that these people cannot be what we call first-rate citizens economically, that they are self-sustaining citizens, and they are given the jobs regardless of their capacity, regardless of their enlightenment, of their educational background, of doing the menial task which is not only degrading but I say that it denies the community the full benefit of the people's capacity—I think our job in America today is to release the capacity and the ability, the abilities of the people, to find out by good vocational guidance today, good testing today in the employment field, which is just being explored—we are just in the infancy of that in America today, trying to get people in the job they can do.

Our problem of neuroses, frustration, and emotional unbalance today is due to frustration, a lot of it, from people being placed in jobs and situations where they are not happy and where they are not able to fulfill their ambitions and to realize their capacities and their abilities.

Now, it is our contention as citizens, and my contention as a citizen and as a public official, that I would be negligent in my duty if I did not work unceasingly for getting the most out of everybody that they can possibly give.

I think that is what we have to do in this country. If we are going to have shorter workweeks, better working conditions, and if we are going to take a whole segment of people, whatever group it may be, and say to them that because you were born with different colored skin or a different shape of face or different kind of hair that you cannot be in the toothbrush business, we are going to deny ourselves a lot of toothbrushes.

If they are good toothbrush producers, all I am saying is that they ought to utilize people on the basis of what they can do for us particularly as sound business people.

This is a business economy, this America of ours. Let us not talk about morals. People do not like to talk morals on the basis of morality. On the basis of everything democratic we have, there is not one tangible argument for discrimination. Not one. So the moral issue, we can set it over here and say we are being immoral, or if not immoral, then amoral on account of the discriminatory practices.

Let us go over here and talk business, and I say in the business life of America, in the producing processes of America, that we are just being foolish and we are being wasteful and extravagant to deny people the opportunity to participate in the job that they can best do; as sound business people we are permitting prejudice and we are permitting some ill-gotten notion of ours to deny us the best and the productive wealth that we could really have in this Nation of ours.

Senator ELLENDER. Mr. Mayor, you said that in St. Paul and Minneapolis there were 16,000 colored.

Mayor HUMPHREY. That is right.

Senator ELLENDER. Have you any idea what caused that animosity against the Jews?

Mayor HUMPHREY. Well, you took us back to Egypt awhile ago, and I think this problem of anti-Semitism has been with us a long time; on the basis of logic there is no reason for it. It is prejudice.

Senator ELLENDER. I agree with that thoroughly.

Has it increased or decreased in the past several years?

Mayor HUMPHREY. Well, I think as the competitive processes become more acute and as the community has grown, I think up to a period of time, let us say a couple of years ago, possibly, there had been an increased tension—not a couple of years ago; let us say 10 years ago. Then large groups in the city's public-school system—the churches have taken a much more enlightened view on them.

There has been a more concentrated attempt through processes of education and understanding and reason to lessen this tension and now through the active work of the law, plus established public commissions like the Fair Employment Practices Commission, the Mayor's Council of Human Relations, the Round Table of Christians and Jews—through all these different things, many of them that I cannot name and list for you. There has been an easing of this tension.

In other words, I say that it is like going to the doctor. When you have an analysis made, a diagnosis made of your case and you find that you are sick, then you start to get well. I mean you have got to know whether you are really sick.

Many a person goes through life with palpitations of the heart, thinking that is the way everybody else's heart beats, but as soon as he goes to a doctor and finds that is not normal, the doctor writes him a prescription and if he wants to be reasonable and abide by it he can abide by it and maybe reclaim a lost life. That is what we are doing in the elimination of discrimination. We get so used to a condition that we assume that is the way it should be. We have had that in some areas of our life.

It has been only recently, I may say, that we thought we could eliminate war as such. Mankind has been at each other's throats for most of recorded history and now we have the audacity to say we can banish it once and for all. Now we are going to work on those terms. It will not happen overnight but we must begin thinking this way and that is the way I think this type of legislation will work and without the enforcement feature in it, it becomes again just general pious platitudes, sermons on the part of people generally; and sermons should be left to the clergy.

Senator ELLENDER. Have you any enforcement provisions?

Mayor HUMPHREY. Yes.

Senator ELLENDER. Do you exercise those powers?

Mayor HUMPHREY. We have not had to—no more than you need a police department. The best police department is the one that has nothing to do; the best fire department is the fire department that is never called out. The best standing army is the one that never has to do a job of fighting and in this situation the best law is the kind of law that never has to be enforced in terms of its punitive effects and in our fair-employment-practice ordinance we have never had to use the punitive aspects of our law.

I would like to recite to you an instance from one of our large department stores and one of the fine department stores in the Midwest. I am proud of our retail district out there in Minneapolis. This particular store had never hired a colored person—and they are the oldest department store in the Midwest.

Senator ELLENDER. Which one?

Mayor HUMPHREY. The Dayton Co.

Senator ELLENDER. Christian?

Mayor HUMPHREY. Yes, sir; very fine, upstanding Congregation-
alists.

Senator IVES. We are Presbyterians, we two.

Senator ELLENDER. I have asked you about the Jews out there and the fact that a lot of people are against them; do you know if discrimination of any kind or character is practiced?

Mayor HUMPHREY. Jewish people?

Senator ELLENDER. Yes.

Mayor HUMPHREY. Senator, we are going to be tactful. There is discrimination between the Jewish people and the colored people and the colored people against the Jewish people and the colored against the white and the white against the colored. This is not a one-way street. Therefore, I say equal application of the law; equal protection of the law; whoever is guilty, regardless of race, color, creed, should have the full effect of the law against him, and whoever is not guilty and is being discriminated against should be given the protection of the law.

Senator ELLENDER. According to your observation, there is as much or some discrimination being practiced among those who state there is or should be no discrimination.

Mayor HUMPHREY. You are asking me whether minorities are practicing discrimination. There is no doubt they are responsible for a due proportion of it, but there is much less, because of the size of the numbers, than in the majority group, and I think that while that consideration is germane to the topic and to the bill, again I should make my position clear.

I am not "carrying water" for the minority. I do not like the term. I like the term—to think of them in terms of being "human beings"; and whatever their race, whatever their background may be, or their ancestry, they are people; they are American citizens; and the sooner we quit talking about minorities in America and the sooner we talk about the American citizen—the American people—the better off we are going to be in handling this problem—take out some of the hyphens in the American name, with full appreciation of the laws of America. That is what we say in the Constitution—in the fourteenth amendment. This sort of thing should implement, and does implement, in a positive way the particular segment of our economy—the fourteenth amendment—and I think it is just putting meaning to our word "democracy."

I have many fine phrases in this prepared testimony. I almost wish that I could read them, but I do not think I will take the time.

Senator IVES. We have entered this already in the record, have we not?

Mayor HUMPHREY. Yes.

I have reviewed here the operation of several State laws that we have which you are very familiar with, such as the programs in Chicago and Milwaukee and New York City as compared to our program in the city of Minneapolis, and I want to say that all laws are only as good, let me say, practically, as their administrators.

We are very careful in the personnel that we placed on that commission, and I am going to read this portion of it. [Reading:]

The selection of properly qualified personnel for the commission and staff holds the key to fair and effective administration of the law. In Minneapolis we have been extremely fortunate in securing five outstanding leaders in different phases of community life to serve as members of the commission. The chairman, Mr. George M. Jensen, is regional manager of the Nash-Kelvinator Corp., Protestant cochairman of the National Conference of Christians and Jews, recently headed the civic fund campaign which provides the budget for the chamber of commerce and related agencies, and is a valuable member of the Mayor's Council on Human Relations.

Another member is Mr. Raymond Cannon, prominent Negro attorney and one of the founders of the Minneapolis Urban League.

A third member is Mr. Jack Jorgenson, president of the Teamsters' Joint Council and vice president of the Minneapolis Central Labor Union.

A fourth member is Mr. Amos Delnard, another distinguished attorney and the Jewish cochairman of the National Conference of Christians and Jews.

The fifth and final member of the commission is Mr. Lawrence E. Kelly, who is circulation manager of the Minneapolis Daily Times and retiring president of the Minneapolis Junior Chamber of Commerce.

We say that it represents a cross section of our community, and each one of these people is of the opinion that his job is one of information, one of promoting understanding, one of securing observance, one of conciliation, one of mediation and calling people in, and you would be surprised to see the large number of our factories and shops and retail establishments that have already revised their employment practices; that have already revised their entire procedure of oral examination or investigation of their applicant for a job and have already opened up their gates to new opportunities for people, and may I say that is going to show its effect in positive terms in our budget—our city budget. People who were relegated to \$15- and \$18-a-week jobs—people that had college educations, who are capable and still being forced to work as redcaps because they were colored—we have far too many of them in America, and I think it is traditional to spend the millions of dollars we do to educate people to become intelligent citizens, to become capable, skilled people, and then to say to them—some of whom have masters' degrees or B. A.: "Go out to the depot and carry somebody's luggage and see if you can get a dime from them or half a dollar"; making bellhops out of them. That is not good for people.

We have to have people who carry luggage, but let people carry luggage who have the capacity and ability to carry luggage; they will be happy on that basis; but to take a college-trained man and because he is colored put him on such a job, or to tell him he is going to dig ditches as common labor, or to work on the railroad in the lowest work classification you have got, that is not only discrimination, not only does something to his whole outlook, but makes him easy prey to every cockeyed philosophy that comes along, and it also destroys something for the community.

That would be just exactly like taking the finest general that we have in the United States, or one of the top generals, and say to him: "What we are going to do is this: have you work on K. P. all day." Boy, what kind of criticism the Congress of the United States would give if they should see that type of inefficiency taking place.

Or take a top administrator from one of the departments and put him down as shipping clerk; on that basis the people of America

would have a real right to say that there is being gross inefficiency exemplified in Washington.

I say that this bill says to the American people there is gross misapplication of effort and energy in America; and if this bill is passed, it gives opportunity for normal adjustment of the people in the line of work that they are most capable of doing.

In other words, if a man has it "on the ball," as we say—if he has the training, the ability—he is going to have a job, if he can find that job; and he is going to be given that job not because he is good looking or homely, not because he is white or black, not because of what religious faith he has, but what he can do and produce. That is the finest example, and I am all for them. That is the best answer to foreign ideologies, to fascism and communism—making democracy work, plus a firm policy. But we cannot have a firm policy by putting the hands out and saying to the seas of totalitarianism, "Stop here," on the one hand, when the totalitarianists say, "What are you talking about?" They point out our evils. And we, as democratic people—we, as folks who have morality—have a greater obligation to people in terms of those ideas and ideals because we go around talking virtuous; we have got to live that way of life once in awhile and live that way to the best of our ability every facet of our lives, and particularly ought we do it in business, because if there is anything in this country we scream about it is free enterprise. Anything we talk about, whether it is our productive ability, technological achievement—and it seems to me this bill is just another factor to fortify the continued economic well-being and economic strength of America and say to every American, just as we said in the war: "You are good enough for the good old U. S. A.; now let's go fight." We needed a lot of people to die for the Nation; today we need a lot of people to work for the Nation.

Senator Ives. Senator Smith, have you any questions?

Senator Smith. I have just one question.

I appreciate what you have said, Mr. Mayor, and as one of the co-authors of this bill I am delighted to find support for it and to think that it expresses the policy to be adopted in American policy.

Just one question troubled me in the whole matter; I just wanted you briefly to state your conviction on it. There are a number of areas in this country that resent the legal sanctions in various measures passed, not necessarily this bill but legal sanctions being imposed by the Federal Government on the action in local areas.

We have set up in this bill a very carefully worked out plan or machinery for adjustment of the discrimination cases where the commission function is used—in the New York experience, in my State, New Jersey, and Massachusetts; we have had that over a period of time, and we have a very effective machinery. I take it you have in Minneapolis.

Now, neither in Minneapolis nor, as far as our testimony shows, here in New York or New Jersey have they ever had to apply the legal sanctions. I want to ask you this question: Whether you think it would be possible to work out some plan whereby in a jurisdiction that did not wish to apply the legal sanctions, that option could be given—just the legal sanction, everything else being in effect—and do you think it could be effective, or do you think the legal sanctions are a *sine qua non* of such a law working?

Senator IVES. I think that is the very question I raised with Mrs. Mahoney.

Mayor HUMPHREY. I think that is a very fundamental question, and I have a conviction on it, Senator, and my feeling is that if we are going to have this kind of a law, let us have this kind of a law. Let it apply to all people alike, the majority and minorities and the South and the East and the West, everywhere, with legal sanctions.

Now, in those areas where we have had no need for application of the legal sanction, you do not need to worry about it. I do not mean that they have a national law or law, for example, about forgery or a law about bankruptcy. I am not going to rob a bank.

Senator SMITH. That has raised the question to me of inconsistency in that situation. I do not quite agree with that. I think you have a situation here which deals with very delicate human relations. I am convinced that we cannot legislate happiness and human relations. I am convinced you must like the fellow. I am convinced you could educate that man to have a larger understanding of human relationships. You could educate people to realize the wrong that, in my judgment, has been done to Negroes and other in this country and get them to see along the line of our own suggestion. Going forward, we have to eliminate those discriminations. Can we do it by the word "must," or by conciliation and persuasion processes?

Mayor HUMPHREY. I would say that if you did not have this mandatory conciliation service that you—

Senator SMITH. That part still remains mandatory.

Mayor HUMPHREY. If you did not have regionalization in the circuit courts, district courts, and for your examiners, then I would say—if it is just punitive—then you would have good grounds for your feeling or your statement on it; but it is my opinion that you do have, first of all, these mandatory conciliation and persuasion provisions before any legal action—before action taken for punitive effect—and this working and educating in there—and I heard Senator Ives say, time is on our side—so on this thing, the explanation I have, the flexibility of it permits you to have what you want to have happen. But as the statement of one who has spent a good deal of his life in education, education is not enough. It is just like in the home; the good parent is not the one that uses the rod or strap right off the bat; he is one who talks and tries to understand the child; but, at the same time, I am not one of the modernists to a point where I do not believe in old-fashioned remedies when it gets right down to brass tacks. And if we did not have such a set-up, I do not know what kind of America we would have. In this situation I believe we have got to maintain those enforcement features. I say that it permits a great discretion on the part of the Commission.

Senator SMITH. Bear in mind we are dealing in areas where we are trying to develop an atmosphere which is just as important as the word "must."

Mayor HUMPHREY. With the "must" it is like this thing you carry in your right-hand pocket. If need be, you have force. Right over here in the final part you have some means of compelling action.

Senator SMITH. I do not want to prolong this. You apparently share the views of the other witnesses; I am just trying to see the general feeling on the explosiveness of this particular point. I think

that is the very heart of the whole business. If we start wrong the thing will be repealed as prohibition was repealed. If we do not have public opinion.

If public opinion says these people are autocratic, unreasonable, you are going to break this whole movement up. I want to see the movement succeed, and I am wondering whether the process should not take place step by step through education, conciliation, and discussions, by the Commission—yes; but not the arm of the law; not let people feel we are putting a law in here that is compelling people to be nice and be agreeable and to work with each other.

Mayor HUMPHREY. I would say, Senator, too, that if we do not have this with uniform enforcement in it, we would have a crazy-quilt type of policy of the country.

Senator SMITH. I agree with that, but that is questionable in my mind.

Senator ELLENDER. Senator, I was just going to remark that I noticed in the paper of yesterday, or the day before, where California voted by a million votes against; that is, the majority voted against FEPC for the State of California.

Senator SMITH. I am not saying this is no problem. Out there are areas where you have an extensive Japanese problem; and there are other areas in the Middle West where farmers, some of the farmers, are very greatly in doubt about trying to accomplish this. So I am just trying to think in terms of making it succeed and not having a law that will be a dead letter because public opinion is against it. Success will depend upon the people who run it, and the people who run it who have that diplomacy, and persuasiveness to bring about this desired result without having a big stick behind the scenes.

Mayor HUMPHREY. May I say, Senator, that I know of no type of legislation that will have more intelligent, more understanding personnel available for the Commission.

Senator SMITH. I agree we have done splendid work in the commissions in Massachusetts, New York, and New Jersey. I have commended them all. I think they have done a wonderful job; and I never knew of yours, but I think you have done a wonderful job, too.

You are at least going along with me this far—that emphasis must be on education, conciliation, and persuasion rather than emphasis on the big stick.

Mayor HUMPHREY. It is like it is in traffic control, sir; you do not keep people driving safely and sanely by putting a traffic officer on every block.

Senator SMITH. I do not agree with the implication there that the situation is the same between automobiles and human beings. There is a different personal approach in the thing and that is all I am discussing with you—a different personal approach.

Can we deal with people better by the iron hand, by saying you must do this thing, or by reason and conciliation and understanding of what the basic issues are that you have so well expressed?

Mayor HUMPHREY. All I can say is that if this bill were passed as it is, you would have an expression from the Congress of the United States formulated into the law. The American people, under the program that we have outlined, that you gentlemen have outlined in the bill, and with your own understanding of it, with the education and with the conciliation and all, will have respect for that law.

Senator SMITH. This still will be law; it is just a question of whether you want to put in section 8 which brings the court procedure.

Mayor HUMPHREY. Yes, sir; that is my considered opinion.

Senator IVES. Are there further questions?

(No response.)

Thank you very much. We appreciate your coming.

Our next witness is Mr. Henry Epstein, chairman, National Community Relations Advisory Council, New York.

Will you come forward, Mr. Epstein.

(The brief submitted by Mayor Humphrey is as follows:)

TESTIMONY OF HON. HUBERT H. HUMPHREY, MAYOR OF MINNEAPOLIS, BEFORE THE SUBCOMMITTEE ON ANTIDISCRIMINATION LEGISLATION OF THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE, WASHINGTON, D. C., JUNE 10, 1947

The city of Minneapolis has taken the lead among American communities in acting on the conviction that governing bodies have a positive responsibility to assure equality of opportunity for employment to citizens of all races, religions, and national origins. We are the first city in the Nation to establish by municipal ordinance a fair employment practice commission. In spite of the fact that this commission has been in office for less than 2 months, we already have positive evidence of the value of this legislation in overcoming discrimination in employment. We expect positive benefits from this ordinance and we are already beginning to achieve them. I propose to outline these benefits and to emphasize the responsibility of the Federal Government to enact similar legislation so as to assure the same benefits to all citizens of this democracy.

Since the adoption of the Minneapolis FEPC ordinance, the Minneapolis Urban League reports a marked improvement in employment opportunities for Negro workers. A major 5-and-10-cent store has employed a Negro worker on counter work as a direct result of the law. The change in public policy represented by the adoption of the ordinance is given by the regional manager of this 5-and-10 chain as the reason he is requesting all his stores in the upper Midwest to adopt a policy of nondiscrimination in employment. The league has secured employment for a qualified Negro worker in a photo-development laboratory since the passage of the law, a result that it had not been able to accomplish in a year of negotiation before the law was passed. One of the city's leading department stores, which formerly did not employ a single colored worker, has begun to hire Negro applicants for a wide variety of jobs requiring training and skill. The personnel director has given "improved acceptance by the public of colored workers" as the reason for the change in policy. However, this improved acceptance was gained by the educational work done in promoting the legislation and by its adoption.

The law gives employers the opportunity to shift to the city government the burden of meeting whatever opposition may present itself against a policy of nondiscrimination in employment. That is a responsibility that I, and the members of the fair employment practice commission, are glad to assume. We believe that the practice of hiring qualified workers on the basis of their skills, and without distinction because of race, religion, or national origin, provides positive benefits to employers and unions, as well as to minority workers and the community as a whole. Therefore, the city has taken effective action to assure these benefits to all the members of the community and to protect them against those who, through ignorance and prejudice, may resist the carrying out of this sound public policy.

There are few, if any, whose real interests are served by maintaining practices of discrimination in employment. The enemy that we must combat is not the self-interest of any group, but consists of ignorance and apathy and the failure to see that the real self-interest of the entire community is served by using without limitation the productive power of all of its human resources. Legislation against discrimination in employment is a proper and effective instrument for combating this enemy. Even our short experience in Minneapolis indicates that our municipal fair employment practice ordinance is directing the attention of employers and union leaders toward the problem, and is impelling them to solve it.

In spite of the fact that our commission has not yet established an office or employed a staff, the chairman has received a number of inquiries from leading employers and from union officials as to the steps they should take to bring their practices into full compliance with the provisions of the ordinance. Several of them have submitted copies of their application blanks for review and approval by the commission. They are seeking advice on the elimination of irrelevant items relating to race, religion, and national origin, in order to make sure that this information will not be used by the people who do the hiring as the basis for discrimination in the selection or rejection of qualified applicants. Similar inquiries are reported by the Minnesota Jewish Council, Associated Industries, both the senior and junior chambers of commerce, the central labor union, the Hennepin County CIO Council, and other agencies working in the field. The spirit in which these inquiries have been made indicates an intention and desire on the part of major employers and unions to wholeheartedly carry out a program of nondiscrimination in employment. I am convinced that the operations of the Minneapolis Fair Employment Practice Commission will make this policy effective so far as its jurisdiction extends.

We in Minneapolis expect to benefit economically, socially, and morally through the adoption of this ordinance. Let me list the economic advantages first: We now have in Minneapolis a very considerable number of people of different racial, religious, and nationality groups who are now prevented by prejudice and discrimination from fully developing and using their potential skills. We believe that effective enforcement of the ordinance will give these people both the opportunity and the incentive to develop and utilize their full skills. This increased productivity will benefit the entire community in many ways. One of its effects will be to reduce the expenditures of public funds now required for relief, public health services, and the correction of delinquency and crime. Another benefit will be the increased market for the products of other workers and of business concerns in the community because of the increased buying power which minority workers will gain. A third economic benefit will be the higher standard of living enjoyed by the minority workers and their families.

These economic results are expected to have a cumulative effect in improving the social health of the community. Their increased earning power will make it possible for minority workers to gain for themselves and their children education and training which will enable them to fully develop their potential skills. Furthermore, the day-to-day contacts between the members of different racial, religious, and nationality groups in employment is the best possible device for building mutual understanding, respect, and good will. It is through this kind of educational process that we will break down those false and vicious stereotypes which have grown up in our society because of the limited and unnatural status of intergroup contacts. This increase in personal acquaintance with members of other groups will lead us to treat all of our fellow men as individuals and will teach us the truth of Mark Twain's observation: "If a fellow is a human being, he can't be any worse."

And speaking in terms of ethics, our conscience in America has become corroded and encrusted with a bitter feeling of guilt because we profess a belief in justice and equality of opportunity, but we practice injustice and discrimination against the members of minority racial, religious, and nationality groups in every one of these United States. The outlawing of discrimination in employment by adequate and effective legislation is a major step in lifting this burden of guilt from our American conscience. We have taken this step in Minneapolis. It is a step that should be taken in every city and State, and by the Federal Government as a clear and unequivocal statement of national policy. The enactment of this legislation by the Congress would represent a long stride toward the solution of the American dilemma by bringing our practices into harmony with those high principles of justice and equality of opportunity to which we all subscribe.

Municipal and State experience to date shows the tremendous importance of including in the law proper and effective provision for administration and enforcement. Chicago and Milwaukee are the only other cities that have enacted municipal fair employment practice ordinances. Both of them cover private employers and unions and provide penalties for violations of the law. However, I understand that they have not been very effective because the laws do not provide for any qualified commission or staff to make investigations and adjust complaints. Furthermore, such lack of administrative machinery exposes employers and unions to the possibility of legal prosecution on the basis of complaints which are not well-founded or which could be readily adjusted by constructive negotiation.

In fact, experience has shown that one of the principal services performed by a fair employment practice commission is to protect employers and unions against unjustified charges of discrimination. The records of both the Federal FEPC and the New York State Commission Against Discrimination show that more complaints are dismissed than are accepted as valid. During the first year's operation of the New York State law, 58 percent of all cases were dismissed or withdrawn and the remaining 42 percent were successfully adjusted. Likewise, by screening out cases which were not well-founded, which were outside the jurisdiction of the committee, or which could not be proved, the Federal FEPC eliminated 64 percent of all complaints and accepted only 36 percent for adjustment. The existence of a responsible public agency to investigate and adjust complaints also serves to clear up doubts in the minds of minority workers who have reason to suspect that certain job situations are discriminatory although in fact they are not. The clearing up of these doubts, and the satisfactory adjustment of valid complaints, serve to reduce tensions and to improve intergroup good will.

The selection of properly qualified personnel for the Commission and staff holds the key to fair and effective administration of the law. In Minneapolis we have been extremely fortunate in securing five outstanding leaders in different phases of community life to serve as members of the commission. The chairman, Mr. George M. Jensen, is regional manager of the Nash-Kelvinator Corp., Protestant cochairman of the National Conference of Christians and Jews, recently headed the civic fund campaign which provides the budget for the chamber of commerce and related agencies, and is a valuable member of the mayor's council on human relations. Another member is Mr. Raymond Cannon, prominent Negro attorney and one of the founders of the Minneapolis Urban League. A third member is Mr. Jack Jorgenson, president of the Teamsters' Joint Council and vice president of the Minneapolis Central Labor Union. A fourth member is Mr. Amos Delnard, another distinguished attorney and the Jewish cochairman of the National Conference of Christians and Jews. The fifth and final member of the commission is Mr. Lawrence E. Kelley, who is circulation manager of the Minneapolis Daily Times and retiring president of the Minneapolis Junior Chamber of Commerce. I have indicated the caliber and the community status of these members of the Minneapolis commission because I want to emphasize the importance of securing individuals of similar qualifications and corresponding national status to administer the national fair employment practice legislation. Such individuals must have the full confidence of the community in terms of their soundness of judgment, their fairness and integrity, and their forthright resolve to make effective the principle of nondiscrimination in employment. They should be broadly representative of those groups in the community who are most directly concerned with the proper administration of this legislation—namely, employers, labor organizations, and the members of minority racial, religious, and nationality groups. It is just as important to have the commission's negative decisions on unjustified complaints accepted as fair by the members of minority groups in the community as it is to have its positive action on valid complaints accepted as proper by employers and labor unions.

In spite of the very successful record that has been established by some State laws against discrimination in employment, and although we are making an effective start on the administration of our municipal ordinance in Minneapolis, local action can never be sufficient or adequate to solve this serious national problem. First of all, this is a problem of national morality. The denial of employment opportunities to our citizens because of their race, religion, or national origin is a flagrant violation of our democratic principles and of our traditional statements of public policy. We cannot hold up our heads as self-respecting American citizens, and we certainly cannot successfully aspire to leadership in world affairs, so long as we make mockery of our high-sounding talk about justice and democracy by practices of discrimination which destroy the dignity and deny the rights of millions of our fellow citizens. It is high time that we correct this weakness in our public character by taking such forthright action against it that there can be no question of our sincerity and good faith. The enactment of Federal fair employment practice legislation with provisions for vigorous enforcement power and with a sufficient appropriation of funds to assure effective national administration would go a long way toward lifting this burden from our national conscience.

It should be noted here that even the bitterest opponents of this legislation have never publicly opposed the principle that all of our citizens should have the opportunity to work in accordance with their qualifications and skills. This principle is not controversial. Therefore, there is no excuse for leaving the question

of making it effective to local option. We need Federal legislation with broad enforcement powers and adequate administrative provisions as an unequivocal statement of sound national policy.

There is plenty of room for State and municipal action in addition to the Federal law. For example, our Minneapolis ordinance applies to all employers of two or more workers. We believe that we can properly administer this provision of the law in our local situation. However, such a broad coverage may not be administratively feasible on a national scale. Federal legislation should set the basic national pattern, and local laws may be enacted to apply this pattern to groups of employers, labor organizations, and workers which cannot be appropriately covered by national legislation. We might say that the Federal Government should get the minimum standards and that State and local governments may raise the standards for their areas as far above these minimums as their social development permits.

In economic terms, the entire Nation is a single unit. The effective use of our human resources throughout the Nation is essential to our general welfare. The increased productivity which comes from the full use of our potential skills is vital to our social health. It will help us to overcome poverty and disease and delinquency and crime. Those areas in which discrimination in employment is most serious are the ones in which the use of our human resources is most wasteful. The public welfare clearly demands Federal action against discrimination in employment in order to prevent these wastes, to raise the standards of living of minority workers, to give the entire Nation the benefit of their increased productive power, and thus to preserve and strengthen the social health of the Nation.

Through action setting up a board of economic advisers to the President and providing for recommendations by this board to the Congress, the Federal Government has finally recognized its responsibility for creating conditions which will assure continued high levels of production and employment. If full employment is to be meaningful, it must provide not only that all workers shall be employed at some job, but that they shall be placed in the job in which they can produce most effectively the goods and services that meet the Nation's needs. This cannot be accomplished if artificial barriers are raised to prevent workers from filling the jobs for which they are best qualified. Therefore, if the Federal Government is to achieve the objective of continued full employment, it must act on its responsibility to prevent discrimination on the basis of race, religion, national origin, or ancestry.

Finally, I want to emphasize the intimate interdependence between the solution of our human-relations problems in our own communities, and within our own national boundaries, and our major human task of building sane and decent and peaceful relations between the peoples of the world. If we are going to export democracy, we better get toolled up for mass production of it here at home. We must deal with justice and mutual respect and good will with our neighbors, if we are to qualify as decent citizens of the world.

STATEMENT OF HENRY EPSTEIN, CHAIRMAN, NATIONAL COMMUNITY RELATIONS ADVISORY COUNCIL, NEW YORK, N. Y.

Mr. EPSTEIN. Do you want me to recite my background, Senator? Senator DONNELL. If you will, please.

Mr. EPSTEIN. The organization which I represent here, Senator, is the National Community Relations Advisory Council, which is not a New York organization. It is, as its name indicates, a representative organization national in scope. It is a policy-making and coordinating body whose constituent members are the national and local Jewish organizations, including the American Jewish Congress, the American Jewish Committee, the Anti-Defamation League of B'nai B'rith, the Jewish War Veterans, the Union of American Hebrew Congregations, and the Jewish Labor Committee.

It also represents on its body 24 councils of cities, regions, and States in this country.

Of my own background may I state briefly. I was born in South Carolina; I attended, in my early years, the public schools of Charleston, S. C. and Savannah, Ga.

I taught high school in Arlington, Mass., along the road that Paul Revere rode. I was also for 2 years on the faculty in the department of history at Harvard College.

I am a graduate of the public high schools of New York City, of Harvard College, and the Harvard Law School.

I, for 10 years, occupied the post of solicitor general of the city of New York; I have been for 2 years now the chairman of the national community relations advisory council and also the chairman of the commission on community interrelations, which is sponsored by the American Jewish Congress.

I was at one time for a very brief period the counsel designated to the President's Fair Employment Practices Committee to conduct the railroad hearings on discrimination in the employment of Negroes on the railroads in the United States.

In January of 1943 when those hearings were to be commenced, after we had prepared the evidence, and after the President had gone to Casablanca, Mr. McNutt canceled the hearings. I thereupon resigned in protest against what I considered to be an unwarranted action on his part.

Senator DONNELL. I just want to make a statement here for the record, and also that all may know, that at 12 o'clock that same buzzer goes on again indicating that the session of the Senate has begun and for about 3 to 5 minutes we will have to stand in recess until permission is granted for us to continue.

Proceed, please.

Mr. ERSTEIN. Subsequently, when Mr. Bush succeeded Mr. Ethridge as chairman of that commission, he asked me whether I would resume the conduct of those hearings in the fall of 1943, and I declined to do so unless they could have some assurance that the findings would be made effective under the Presidential order.

No such assurance was forthcoming; I did not resume my position as counsel to conduct those hearings.

Senator DONNELL. I see.

Senator ELLENDER. Could it have been done under the Presidential order?

Mr. ERSTEIN. The hearings could be conducted.

Senator ELLENDER. I am not talking about enforcing anything.

Mr. ERSTEIN. The order could be issued under the Presidential directive at that time. There was another way in which that particular order could have been enforced. Because the discriminatory provisions which we were inveighing against are embodied in contracts between southern roads chiefly and the railway unions such contracts were subject to and approved by a governmental agency, that governmental agency, in my humble judgment, was thereby overstepping the bounds of its constitutional authority in actually placing its imprimatur upon a discriminatory contract.

Senator ELLENDER. You mean the ICC?

Mr. ERSTEIN. That was the National Railway Mediation Board.

Senator ELLENDER. So you would have used the same facilities that were used by the Government in Government contracts?

Mr. ERSTEIN. Oh, definitely the same way; there was no direct law on the subject but it would have been done in an indirect way. It could have been accomplished that way.

Senator, I have not more than 7 or 8 minutes here in which to focus all of the statements which I have here, and I would be glad to discuss any of the questions and their backgrounds.

The range geographically of the organization which I represent here and its regional and State councils and municipal councils, is from Boston to Los Angeles and San Francisco, and from Minnesota to the southwest Jewish Community Relations Council, which includes Texas and, I should like to advise the Senator, Louisiana.

The delegates from these local, State, regional, and national agencies in their plenary session of this organization held last March and representing approximately 90 percent of the Jewish people in this country unanimously resolved in favor of the speedy enactment of Federal legislation designed to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry, and the framework of the Constitution itself. We believe that in calling upon the Congress of the United States to eliminate discrimination among employees or those seeking employment in the factories and workshops of the Nation, we are urging the elimination of a threat not only to the security of the Nation's minority groups, but also to safeguard the very security of America itself.

We have noted the apparent unanimity with which religious leaders of all faiths have appeared here to denounce discrimination in employment as an immoral affront to the innate dignity of man. Civic leaders have joined with them in testifying to the undemocratic and un-American character of such discrimination, a repudiation of the truths which are distinctive in the immortal Declaration of Independence and in the framework of the Constitution itself. The United States Supreme Court itself, even when the so-called nine old men were still there was not unaware of this encroachment upon the tradition and heritage of American freedom, because in the case of *New Negro Alliance v. Sanitary Grocery Company* (303 U. S. 552, at p. 561), speaking through Mr. Justice Roberts, the Court held:

Race discrimination by an employer may reasonably be deemed more unfair and less excusable than discrimination against workers on the ground of union affiliation.

And in that case may I state, Senators, that the Supreme Court reversed a lower court and sustained the right of free speech by Negro groups in a community where they were the dominant purchasers, to picket a grocery store in order to compel the employment of Negroes, and I suggest that perhaps in those States of which Senator Ellender speaks this bill may provide a much more salutary domestic peace than what might ensue in the rapid enlightenment of such a large body in their population.

It may not seem surprising, and yet it is gratifying, that labor leaders have also united in demanding an end to employment discrimination, and we find particular satisfaction in noting that a former chairman of the United States Chamber of Commerce and the present head of an organization having great weight in the mass media of the motion pictures, Mr. Eric Johnston, saying:

True economic progress demands that the whole Nation move forward at the same time. It demands that all artificial barriers erected by ignorance and in-

tolerance be removed. To put it in the simplest terms, we are all in business together. Intolerance is a species of boycott and any business or job boycott is a cancer in the economic body of the Nation. I repeat, intolerance is destructive; prejudice produces no wealth; discrimination is a fool's economy.

Our statesmen also remind us that in our relations with other countries, discrimination is a handicap; that the tenets of our democratic civilization are in clear conflict with the philosophy of totalitarianism, and that in that conflict the discrimination which may be practiced in a so-called democratic civilization may well become the Achilles heel in the choice between these two conflicting ideologies where in desperation peoples in other lands may look for guidance in making their choice.

I ask the Senators not to forget that between two-thirds and three-fourths of humanity is either black or brown or yellow and not white and that the meanings of education and progress are marching with amazing rapidity.

In becoming a signatory to the Charter of the United Nations, and in the ratification of that Charter by the United States Senate, we have undertaken a solemn obligation to promote without distinction as to race, sex, language, or religion the respect for and the observance of fundamental freedoms.

Indeed, our Secretary of State recently in Moscow and to an audience attuned to other concepts than ours, said:

To us a society is not free if law-abiding citizens live in fear of being denied the right to work or deprived of life, liberty, and the pursuit of happiness.

Discrimination and particularly discrimination in employment has moved around from its position as a back yard domestic issue into the full exposure of a front porch problem where the world observes. It is not without significance also that last year at the hearings before both Senate and House committees, among the witnesses estimated to represent some 60,000,000 Americans there was not one who rose to defend this practice and who did not challenge the fact that it was an unmitigated evil.

I should like to point out a few instances, detailed analysis of which is contained within the statement which I have heretofore, pursuant to the rules of your committee, filed, evidencing a growth of discriminatory practices in the communities in the United States since the war. Reports were obtained in a survey of trends and discriminatory employment as practiced against Jews from 15 cities, including approximately 80 percent of all the Jewish people in the United States. These included cities like New York, Boston, Chicago, Cincinnati, Cleveland, Philadelphia, St. Louis, Los Angeles, Kansas City, San Francisco, and so forth.

A copy of that survey has, I believe, been presented for incorporation into the record, together with the formal statement.

Help-wanted advertisements during corresponding weeks in 1946 and 1945 were studied in eight cities and evidenced an increase of 105 percent in discriminatory advertisements for 1946 over 1945, despite a decline in the total volume of help-wanted advertising. Two hundred forty-one private employment agencies in twelve of the largest cities were visited. Out of 107 agencies in New York City and in Newark, N. J., where State laws were in effect, only 2 included any reference to religion in registration forms. On the other hand, 89 percent of the

agencies outside of these two cities include questions concerning religion, and two-thirds of these same agencies reported that it was more difficult to place Jewish workers. In Chicago an actual statistical analysis of discriminatory job orders was made by a large commercial agency showing that 60 percent of the executive jobs, 50 percent of the sales jobs, 41 percent of the male clerical, and 24 percent of the female clerical opportunities were closed to Jewish applicants, and 83 percent of all orders placed carried discriminatory specifications.

It is understandable that the data which has been submitted with my formal statement refers exclusively to discrimination against Jews because the agencies which are the constituent members of the organization I represent have been dealing at first hand directly only with that aspect of the problem as concerns their own people. We know, however, that in more aggravated form these discriminatory rebuffs are being shared by millions of Americans whose color or national origin also act as disqualifying causes.

Now, a suggestion has been made, as reported in the press, by Senator Smith that States should be permitted after the enactment of such a bill, should it be enacted by the Congress, to withdraw from the enforcement provisions or sanctions of the measure, leaving only the educational provisions available.

Senator SMITH. Only the legal sanctions; the compulsion of having the hearings will be there.

Mr. EPSTEIN. That is what I mean, the compulsion.

Senator SMITH. That still does not quite state it correctly because I would still leave in the bill—

Mr. EPSTEIN. Conciliation, persuasion.

Senator SMITH. Yes; and discrimination would be punishable. What I am getting at is whether the decision of the Commission should be enforced by the arm of the law, whether we could not get further with the educational processes.

Mr. EPSTEIN. You will observe in this law a step by step—

Senator SMITH. I helped to draft it; I am quite familiar with it.

Mr. EPSTEIN. Before you get to the actual enforcement of the legal sanctions—

Senator SMITH. That is right.

Mr. EPSTEIN. There are innumerable steps in the course of which you may and we hope will probably reach the desired end.

Senator SMITH. Right, and you have the power of subpoena and all those things so that the hearings cannot be bypassed.

Mr. EPSTEIN. As Daniel Webster said, a bill without the actual possibility of ultimate enforcement—I paraphrase his language—is just perfectly good advice.

I merely want to point out what I consider to be basic legal objections to the Senator's discussion.

Aside from moral and social lack of justification, it would seem to run squarely afoul of the provision of the United States Constitution. One can reach this conclusion very readily by applying the same reasoning to such measures as the pending Taft-Hartley bill dealing with labor problems, if States were to be permitted to withdraw from its sanction provisions leaving others to which it might be applicable. Aside from the economic chaos which would ensue, the fact that the United States Government, the United States Congress itself, could

not enact a measure which would deny equal protection of the law to employers and employees alike throughout the 48 States of this Nation, should delegate to the States or the power to States to create such an act in the enforcement of the law, it seems to me an objection that overrides all of what I would consider possibly a conciliatory gesture for those States who may wish to escape the provisions of this law; and it is within the ultimate power of exercising the legal sanction that lies the great educational force in all such laws.

Senator DONNELL. We will have to stop right here. We will have a 5-minute recess. You may continue, Mr. Epstein, when we are back in session.

(At this point a short recess was taken in the hearing.)

Senator DONNELL. Very well, Mr. Epstein, proceed.

Mr. EPSTEIN. I have heretofore referred to the application of the theory that Senator Smith has suggested as a possible amendment to this bill if it were applied to the Taft-Hartley labor bill and what complete chaos would result economically in addition to which it would indicate how clearly it would run afoul of the equal protection of the Constitution of the United States.

I might add that the same reasoning applied to the Fair Labor Standards Practices Act which established minimum wages and maximum hours and would exemplify the complete illogic as well as the unsoundness of the proposal.

One of the great philosophers of history, Dr. Arnold Toynbee, has concluded that no great nation ever succumbed to the pressure of competing ideologies or forces unless it first weakened itself by self-inflicted wounds. By the enactment of this bill, S. 984, the Congress of the United States can do much to heal the wounds of our democracy which have been and are continually being inflicted by racial and religious discrimination in all forms of opportunity, and particularly in the opportunity of earning a livelihood and thus enable this great Nation to move forward with unimpaired strength in the vanguard of a world seeking peace.

I would ask, Senator, that the full statement which I have heretofore filed in addition to these remarks be made a part of the record of this committee.

Senator DONNELL. Without objection, it is so ordered.

(Mr. Epstein submitted the following brief:)

STATEMENT SUBMITTED BY HENRY EPSTEIN, CHAIRMAN, NATIONAL COMMUNITY RELATIONS ADVISORY COUNCIL, JUNE 19, 1947

The National Community Relations Advisory Council is a coordinating body of national and local Jewish community relations agencies. Its national member organizations are: The American Jewish Committee, American Jewish Congress, Anti-Defamation League of B'nai B'rith, Jewish Labor Committee, Jewish War Veterans, and the Union of American Hebrew Congregations. Also affiliated with it are 24 regional, State, and local community councils throughout the country. These are:

- Akron Jewish Community Council
- Baltimore Jewish Council
- Jewish Community Council of Metropolitan Boston
- Jewish Community Council, Bridgeport, Conn.
- Brooklyn Jewish Community Council
- Cincinnati Jewish Community Council
- Jewish Community Council, Cleveland, Ohio
- Detroit Jewish Community Council

Public Relations Council of the Jewish Federation of Indianapolis
 Jewish Community Council of Greater Kansas City
 Los Angeles Jewish Community Committee
 Milwaukee Jewish Council
 Minnesota Jewish Council
 Jewish Community Council of Essex County, N. Y.
 New Haven Jewish Community Council
 Jewish Public Relations Council for Alameda and Contra Costa Counties, Calif.
 Philadelphia Jewish Community Relations Council
 Jewish Community Relations Council, Pittsburgh
 Jewish Community Relations Council, Rochester
 Jewish Community Relations Council of St. Louis
 Northwestern Jewish Community Relations Council
 Jewish Community Council of Springfield, Mass.
 Jewish Survey and B'nai B'rith Community Committee of San Francisco

Jewish organizations are agreed on this issue of equality of job opportunity. Meeting in plenary session last March, delegates from the communities affiliated with the NCRAC, embracing approximately 90 percent of the Jews in this country, by unanimous resolution called for the speedy enactment of Federal legislation to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry. And, believing with Daniel Webster that "a law without a penalty is simply good advice," they called for a law with adequate enforcement powers.

Discrimination is no new phenomenon to the Jew. For centuries he has found the doors of certain industries and occupations closed to him, and the present distribution of Jewish workers reflects in large measure the history of past exclusions. Every so-called minority knows the meaning of discrimination. Only recently, however, has the world learned the lesson that racism blights the oppressor no less than its victims. For the rise and fall of Hitler has vividly demonstrated that a national policy of discrimination is a certain road to ruin. In calling upon this Congress to eliminate discrimination from the factories and workshops of our Nation, therefore, we are urging that you eliminate a threat not only to the security of our country's racial, religious, and ethnic minorities, but that you take steps to safeguard the security of America itself.

Religious leaders of all persuasions have appeared here to denounce discrimination as immoral and unjust and as an affront to the innate dignity of man. Civic leaders have testified that discrimination is un-American and undemocratic, a denial of those self-evident truths proclaimed in the Declaration of Independence. Leading jurists have ruled that discrimination deprives minorities "of their constitutional right to earn a livelihood" (*Carroll v. Local 269*, 133 N. J. Eq. 144, 147); and the United States Supreme Court itself, noting that laws prohibiting discrimination against labor union members had quite properly been sustained, has held that "Race discrimination by an employer may reasonably be deemed more unfair and less excusable than discrimination against workers on the ground of union affiliation" (*New Negro Alliance v. Sanitary Grocery Co.*, 308 U. S. 552, p. 561).

To these expressions of conscience and idealism have been added the considerations of practical self-interest. Sociologists have shown how the poverty born of discrimination breeds disease and slums and crime, how it stunts the body and warps the mind, and they have counseled its prohibition as a matter of elemental self-interest. Economists have advised that we must focus our sights on achieving maximum purchasing power if we are to maintain a healthy economy, pointing out that the States with the lowest per capita income are those in which discrimination is most severe and widespread, as evidence that when large numbers of persons are prevented from working on jobs for which they are fitted by education, training, and skill, the purchasing power and standard of living of the total community sinks accordingly.

Labor leaders have united in demanding an end to discrimination in employment because they know full well that it depresses wages and creates divisions inimical to the trade-union movement. Businessmen, too, have come increasingly to recognize that discrimination does not pay; that it is uneconomical, cutting down the size of markets, increasing the cost of production, and raising the burden of taxation. Eric Johnston, former chairman of the United States Chamber of Commerce, succinctly stated this point of view when he said:

"The withholding of jobs and business opportunities from some people does not make more jobs and business opportunities for others. Such a policy merely

tends to drag down the whole economic level. You can't sell an electric refrigerator to a family that can't afford electricity. Perpetuating poverty for some merely guarantees stagnation for all. True economic progress demands that the whole Nation move forward at the same time. It demands that all artificial barriers erected by ignorance and intolerance be removed. To put it in the simplest terms, we are all in business together. Intolerance is a species of boycott and any business or job boycott is a cancer in the economic body of the Nation. I repeat, intolerance is destructive; prejudice produces no wealth; discrimination is a fool's economy."

And finally, our diplomats remind us that "the existence of discrimination is a handicap in our relations with other countries." Government action to prohibit discrimination was indispensable for the miracle of production which made possible the winning of the war. It is a no less inescapable imperative for winning the peace. We are engaged in a vast global conflict—a conflict not of planes, guns, ships, and tanks, but a conflict of ideas and moral values, in which the tenets of our democratic civilization are opposed to the philosophy of totalitarianism. In that conflict, discrimination may well turn out to be our Achilles' heel. For to the extent that we permit men to be denied the right to work solely because of their race, religion, color, national origin, or ancestry, to that extent our position as the exemplar of democracy is rendered suspect—especially in the eyes of that two-thirds or possibly three-fourths of humanity who happen to be nonwhite.

In our foreign policy, we stand committed to a policy of nondiscrimination. In signing the Charter of the United Nations at San Francisco, and in the subsequent ratification of that Charter by the United States Senate, we undertook to promote "universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." At the recent Conference of Foreign Ministers in Moscow, Secretary of State Marshall defined democracy. He said:

"To the American Government and citizens, democracy has a basic meaning. We believe that human beings have certain inalienable rights—that is, rights which may not be given or taken away * * *. To us a society is not free if law-abiding citizens live in fear of being denied the right to work or deprived of life, liberty, and the pursuit of happiness."

In the words of Ralph Waldo Emerson, however, the peoples of the world cannot hear what we say because what we do keeps ringing in their ears. Thus, the problem of discrimination has, so to speak, moved around from a backyard domestic issue to a front-porch exposure for all the world to see. We can no longer isolate ourselves from our own moral ideas. We can no longer appease and tolerate among ourselves the self-same practices we denounce so strongly in others. Democracy must become a driving force revealed in our domestic behavior before we can make a united effort in behalf of democracy. The elimination of discrimination is not a side issue. It is, rather, the test of our democratic integrity. By enacting this legislation, the Congress can make of that test a triumphant vindication and a passport to world confidence and world respect.

In all the array of witnesses who have appeared at these hearings, as well as those who appeared at both the Senate and House hearings last year, witnesses who Senator Chavez estimated represented some 60,000,000 Americans, there was not one who rose to defend the practice of discrimination, not one who challenged the fact that it is an unmitigated evil.

Why, then, in the face of this expression of national sentiment is there the slightest hesitation about enacting the legislation here before us into law? Is it because the practice of discrimination is in reality not sufficiently widespread to necessitate such action? A brief look at the record should suffice to dispel that illusion. Within the past year, our office, with the cooperation of our member agencies, completed a survey of trends in discriminatory employment practices against Jews.

Since it was not possible to make an over-all statistical analysis, the survey concerned itself with those overt practices by which discrimination against Jews is usually manifested. For every such instance, however, there were many, many more in which discrimination was more subtly but no less definitely practiced. Evidence was assembled along the following four lines:

1. A comparison of discriminatory newspaper advertisements during corresponding periods in 1945 and 1946.
2. A comparison of the volume of complaints filed with Jewish agencies during the comparable periods in 1945 and 1946.

3. A study of registration and referral practices of private employment agencies.
4. A study of job-seeking experiences of workers registered with Jewish placement agencies, supplemented by a sample study of the experiences of Jewish veterans in their efforts to secure employment.

Reports were obtained from the following 15 cities which include approximately 80 percent of all the Jews in the United States: Baltimore, Boston, Chicago, Cincinnati, Cleveland, Detroit, Kansas City, Los Angeles, Milwaukee, Minneapolis, Newark, New York, Philadelphia, San Francisco, and St. Louis.

I should like a copy of that survey to be incorporated into the record, and I shall confine my remarks to a few of the more significant findings.

Studies of help-wanted ads during corresponding weeks in 1946 and 1945 were conducted in eight cities (Chicago, Cincinnati, Cleveland, Detroit, Kansas City, Milwaukee, Newark, Philadelphia). Despite a marked decline in the total volume of help-wanted advertising, there was an over-all increase of 195 percent in discriminatory ads for 1946 over 1945.

Although complaints of discrimination received by Jewish agencies represent but a small fraction of the instances in which Jews are discriminated against, the volume of such complaints is a valuable index. Moreover, in contrast to the common assumption that minorities tend to become overly sensitive and to complain of discrimination when it is in fact not practiced, almost as many instances of discrimination were uncovered during 3 weeks of the study as had been reported through existing channels in 6 months.

Reports were received from agencies in seven cities (Boston, Chicago, Cincinnati, Detroit, Milwaukee, New York, and Philadelphia) comparing the volume of complaints received for comparable periods in 1946 and 1945. The complaints received during the post-VJ-day period showed an increase of 37 percent over the preceding year. A further analysis of these figures, however, reveals some striking contrasts between New York City, where a State law against discrimination is in operation, and all other cities. Whereas New York reported 6 percent fewer complaints in the postwar period, every other city reported an increase of 77 percent or more, with an over-all increase in complaints of 93 percent for the six cities, excluding New York.

Two hundred and forty-one private employment agencies in 12 cities (Boston, Chicago, Cincinnati, Cleveland, Detroit, Kansas City, Milwaukee, Newark, New York, Philadelphia, St. Louis, and San Francisco) were visited. Of these, 220 were commercial agencies charging fees. New York and Newark, N. J., where State antidiscrimination laws are in effect, accounted for 107 agencies, with the remaining 134 distributed among 10 cities. Only 2 of the 107 agencies in New York and Newark included any reference to religion on their registration forms, and both of these gave assurances that the reference would be deleted in conformity with the State law. On the other hand, 89 percent of the agencies outside of New York and Newark included questions about religion on their registration forms, and two-thirds of these same agencies reported that it was more difficult to place Jewish workers.

In Milwaukee five of the six agencies interviewed still retained questions on religion despite the Wisconsin FEPC law. The marked contrast between this practice and that in New York and Newark suggests that the lack of enforcement powers in the Wisconsin statute has in large measure nullified the intent of the law.

In Chicago an actual statistical count of discriminatory job orders was made by one of the largest commercial agencies in the city. This survey showed that 60 percent of the executive jobs, 50 percent of the sales-executive jobs, 41 percent of the male clerical openings, and 24 percent of the female clerical openings were closed to Jews, and fully 83 percent of all orders placed with the agency carried discriminatory specifications.

Statements made by all of the agency heads made clear, moreover, that employers do not need to issue discriminatory orders in order to practice discrimination. They need express their policy only once or reject all Jewish applicants to obtain the kind of referrals wanted.

Information about current practices in industry was assembled from 12 cities (Baltimore, Boston, Chicago, Cincinnati, Cleveland, Detroit, Los Angeles, Milwaukee, Minneapolis, New York, Philadelphia, and St. Louis).

Applicants registering for work with Jewish guidance and placement agencies were questioned about their job-seeking experiences during the 6 months following VJ-day. Supplementary data were obtained from a sampling of World

War II members of the Jewish War Veterans. The following data are based upon the experiences of 1,231 job seekers. Six hundred and fifty-one, or more than half of these applicants, were veterans. Many others were displaced war workers.

The following table, which compares the experiences in New York with all other reporting cities, shows vividly how widely discrimination against Jews is being practiced:

Incidence of discriminatory practices

	New York	11 cities (excluding New York)
	Percent	Percent
Job applicants asked religion by firms.....	15	60
Veterans asked religion by firms.....	19	47
Employment agencies asking religion.....	4	63
Applicants refused jobs by reason of religion.....	7	15

The table shows, too, that although the New York law has not completely eliminated discrimination, there is a strikingly lower incidence of discriminatory experiences in New York than in the other cities.

Discrimination is always intensified by downward shifts in the economic cycle. The data I have cited refer to a period of acute labor shortages. Spot checks more recently conducted give ample evidence that the picture today is even more serious. For example, a survey in Chicago, during the year ended March 1947, showed that 93 percent of private employment agencies had asked applicants about their religion. This compares with 83 percent in the earlier period. Sixteen percent of the individuals covered by the survey reported that they actually had been refused jobs because of their religion, compared with 11 percent in the earlier period.

Other evidence supports the conclusion that discriminatory practices have increased. From Cleveland, we learn that employers there "are more openly stating discriminatory specifications than a year ago." And we have a report from St. Louis that there has been a noticeable trend during the past year of increasing discrimination. Employment still is at an unprecedentedly high level, and these emerging tendencies must therefore be regarded as merely the precursors of greater discrimination should jobs grow scarcer, and no effective legislative remedies be made available to prohibit discriminatory employment practices.

Statistics, however, tell only half the story. Intolerance and injustice are not susceptible of quantitative analysis, nor can frustration or thwarted ambition be depicted on a chart. I should like merely to cite three of the stories told by Jewish job seekers in the course of our survey.

"1. A veteran with overseas service in the Pacific: 'I put an ad in the paper looking for a position and I got a response. The party asked me whether I was a gentile and when I said, "no," the party hung up!'"

"2. A former combat engineer: 'I was interviewed and tested and found satisfactory and told so. I was to report the following week after my application, a formality, was mailed in. My application had four references, all of typical Jewish names. A letter answered my application and said my position was taken by someone else!'"

"3. A New York veteran: 'I was recommended for a job with the * * * Plumbing Co. I was told my qualifications were satisfactory but there was no opening. Later the person who had recommended me phoned the company and was told they couldn't use me because I was Jewish. All this took place on Brotherhood Week.'"

If these data refer exclusively to discrimination against Jews, it is only because our agencies deal directly with that aspect of the problem. Similar or identical experiences, often in far more aggravated form, are being shared by millions of Americans whose skin color, mode of worship, or national origin serve to disqualify them from an opportunity of securing employment in accordance with their ability. Those who still insist that discrimination is neither serious nor widespread apparently hold to the thesis that the best way to treat a disease is to pretend that it does not exist.

What then are the avowed objections to this legislation? Surely, it will not be charged that the bill has been hastily drawn. On the contrary, there is every evidence that its sponsors have conscientiously considered all previous legislation on this subject and have drafted a measure which takes into account the objections raised against previous Federal bills while incorporating the best features of existing State statutes.

By limiting its coverage to employers of 50 or more, S. 984 answers those critics who argued that former bills were not only administratively unenforceable but would interfere with the legitimate operations of family-type farmers and small businessmen.

By exempting nonprofit religious, charitable, fraternal, and educational associations, S. 984 disposes of the specious contention that purely religious institutions would be obliged to employ members of a different faith.

By substituting the term "religion" for "creed," S. 984 answers those, who, like former Representative Slaughter, felt that the latter term was far too vague and ill-defined.

By eliminating the blacklist against Federal contractors who discriminate, by furnishing technical assistance to persons under the act so as to further compliance, by authorizing the Commission to help employers whose employees refuse or threaten to refuse to cooperate with the policies of the act, and above all, by making "conference, conciliation and persuasion" a mandatory first step, while providing at the same time that the results of such endeavors may not be used in evidence, the sponsors of S. 984 have clearly demonstrated, all charges to the contrary notwithstanding, that the bill is therapeutic and not punitive in its intent.

By removing all time limitations upon Congress' right by concurrent resolution to nullify any rule or regulation of the Commission, S. 984 assures that the Commission will operate as an agency responsible to public opinion as that opinion is reflected in Congress. This same concern for making the Commission responsive to public opinion is reflected in the provisions for the establishment of local advisory councils, and in the requirement that hearing officers must be residents of the judicial circuit where the alleged unlawful employment practice occurred.

Critics of earlier legislation prohibiting discrimination in employment laid much stress on the alleged procedural weaknesses of those bills. S. 984 seeks to provide every possible protection for those coming under its jurisdiction. It incorporates all of the reforms adopted by Congress in the Administrative Procedure Act, including separation of the investigative or prosecutive functions from the adjudicative functions, issuance of declaratory orders to terminate a controversy, and an enlarged scope of judicial review.

In addition, it sets up safeguards against irresponsible complaints by limiting the period within which complaints may be filed to 1 year after the alleged violation, by requiring that a sworn written charge be filed by or in behalf of an aggrieved person, and by providing that three members of the Commission hear oral arguments after the evidence is compiled. Will the critics of former bills now object to the explicit procedures which they themselves so ardently advocated?

A review of the hearings and debates of previous legislative attempts to enact legislation of this character, reveals that some opponents questioned whether action against employment discrimination was a proper function of government. Obviously there are some realms of employment which should not be submitted to governmental scrutiny. But there can be little argument about government protection for minorities in those aspects of employment relations which already are subject to regulations, such as hours, wages, labor representation, and so forth. We have said employers may not hire children because we need an educated electorate. We have said that employers must furnish safety measures because we need a healthy citizenry. We must now say that employers may not discriminate against qualified workers for reasons of race, religion, color, national origin or ancestry, because we need a unified, prosperous and democratic America.

Others have argued that the solution of this problem should be left to the States. I, too, favor the extension of State laws against discrimination. But these are supplementary to, not substitutes for Federal action. There are no economic bulkheads between States, and unemployment is no respecter of State lines. The employment policies of an international union, a national corporation, or even a Federal agency set in one State are likely to govern in most others. We have recognized that the free flow of commerce is impeded by State barriers and have eliminated interstate tariffs. Are we to do less in the realm of human rights?

Next, it has been suggested that employers would move toward equality of opportunity as fast as the community at large moves. But insofar as hiring policies are concerned, the employers are the community.

Again, it has been contended that the act would impose additional burdens on employers. Even if this were true, which it is not, are we to infer that the fundamental democratic right of millions of Americans should be sacrificed on the altar of employer conveniences?

Then there were some who proclaimed that the "race problem" could not be solved over night. True, but then who said that it could? And whoever said that the function of S. 984 is to solve the "race question" or "prejudice" in that abstract and philosophical sense? On the contrary, its objective is much more simple and direct—to eliminate a specific and dangerous form of discrimination—discrimination in employment—in the right to earn a living.

And of course there were those who sought to counterpose education against legislation, as though each were an independent and opposing force. Today educators everywhere subscribe to the doctrine of learning by doing, just as legislators recognize that laws constitute one of the most powerful instruments of education. The complementary character of the two is strikingly demonstrated by the fact that laws making school attendance compulsory were necessary before our educational system itself could function effectively.

And finally, there were many who, while insisting that they abhorred discrimination were equally insistent in maintaining that it could not be eliminated by law. That is true. Laws do not of themselves ever automatically end the abuses they are designed to correct. Our criminal statutes, for example, have not yet completely abolished crime. But if we are again to be told that legislation against discrimination will not be helpful or effective, that it will lead to strife and unrest, we can say today with concrete objective evidence to substantiate our contention, "All the dire predictions you now make were advanced in New York, New Jersey, and Massachusetts, and none have come true." We can say, "In New York, in New Jersey, and in Massachusetts it has been done and it works."

In short, the opponents of legislation to prohibit discrimination in employment—the opponents of this bill—apparently refuse to see or discuss it as a whole. They denounce the bill for not doing what, in fact, it does; and for doing what, in fact, it does not. They follow the familiar pattern of attacking it because it is not ideal while condemning it as too ideal. Having no program of their own, they are trying to defeat something with nothing.

The great philosopher of history, Toynbee, has concluded that no great nation ever succumbed to the pressure of competing ideologies or forces unless it first weakened itself by self-inflicted wounds. By enacting S. 984, this Congress can heal our democracy from the wounds inflicted by racial and religious discrimination and enable us to move forward with our strength unimpaired toward a world of peace.

Mr. EPSTEIN. Now, Senator, for a few moments I would like to take up the question of the legal matter which I had suggested before you left the room.

It strikes me, Senator, that if you apply the reasoning of the proposal which you suggest to a bill like the Taft-Hartley bill and enable those States where whatever the forces that might be at work could withdraw from the ultimate legal sanction which those bills provide, that thereby they could do something that the Congress of the United States could not do, namely, to enact a statute which would not grant the equal protection of the law to the employers and employees or the groups living in all the States of the United States. You cannot delegate to the States individually the authority to create a condition in the enforcement or the application of the statutes of the United States which would thereby deny the equal protection of the law to those affected in the other States which did not take like action.

And the same reasoning, it seems to me, would apply to the Fair Labor Standards Act which sets the floor under wages and ceilings to wages and hours—that the thing would apply. It is inconceivable

to me in the logic of the Constitution and in the application and enforcement of laws of the United States, that you can delegate that which you cannot yourself enact, and you cannot create an economic condition which, aside from the chaos that might ensue, would deny throughout the 48 States the equal protection of the laws to those who would not thus be affected by it by reason of the action of their State legislatures.

Senator SMITH. Let me make clear a little further what is running through my mind. As I said, I am not committed to this; I threw it out for discussion. In the first place, in our very labor law, we realize the fact that conciliation is important. Without the end of the road compulsion—we have declined definitely to put arbitrary compulsion into that road—we believe that conciliation has proved itself as being very successful and both labor and management have insisted that there be no final compulsion, compulsory arbitration; you are aware of that.

Mr. ERSTEIN. Yes, sir.

Senator SMITH. The other point you mentioned as a difficult one, I am suggesting may not bring about chaos; we would plan to leave the legal sanction in the law, but we recognize there are areas in the country where we must have support of public opinion if that is going to be supported and I am saying if a State wants the dramatic publicity of having its legislature meet formally and say, we do not want enforcement here, but we are practically saying we are going to carry out the educational and conciliation procedures but we do not want Federal enforcement, and they put themselves on record as taking that responsibility—my point is I do not believe you will get them to take that responsibility if you force them. I am trying to get a practical result that will give us a law that will enforce itself because of the atmosphere which is created. I may be wrong; but I think it is such an important principle that we ought to discuss the procedure, and I am delighted that you have expressed your view on it.

Mr. ERSTEIN. I understand what you are groping for and I deeply appreciate what the results that might ensue would be.

But on the other hand I am concerned about two things basically: One, I am concerned about that which might be established as a precedent which would be destructive of the unity of effort in bringing us of age in industry in this entire Nation and every section of it.

I am deeply concerned with that and I do not think it would be sustained, but instead would pose an issue whereby the Congress of the United States in enacting a complete Federal law which is aimed at industrial equality and industrial democracy, permits of the practice of what in plain terms is secession, because those States in which they do not desire—

Senator SMITH. I do not agree at all with your conclusion. It is not the right word, because this law, as far as the preamble, statement of purposes and conditions and as far as machinery are concerned, is applicable to every State in this Union. That is not impaired in the slightest bit. It is just the "must" quality of a Federal court that I am saying can be later assigned temporarily to see if we do not do it this way, with the proper cooperative relationship.

Mr. ERSTEIN. But what you do, Senator, is permit a State to say to those who are employers within it and to those seeking employment within it, within this State. This cannot be enforced.

Senator SMITH. I do not quite agree with you there because my judgment is that for enforcement of it public opinion is much more effective than the arm of the law in the matter of human relations. That is my opinion.

Mr. ERSTEIN. Senator, I am aware of the rapid growth of enlightened leadership South of the Mason and Dixon's line in this country.

Senator SMITH. You have California in the same position, sir.

Mr. ERSTEIN. Both Senators of California are strongly in favor of this bill as it is with the enforcement provisions.

Senator SMITH. I am a sponsor of this bill with the provisions in it as you know.

Mr. ERSTEIN. I appreciate that.

Senator SMITH. I am just raising the question to see how we are going to get the practical result out of this.

Mr. ERSTEIN. I realize that. I fear that the lack of ultimate power of enforcement in any measure deprives it of the greatest educational force in the procedural steps which are designed to bring about that educational result and I think in the history of the study of legislation, that is proved. If you take the history of the amendments following the Civil War, constitutional provisions which in and of themselves are so simple that one would have thought they were self-executing, yet it was necessary to enact laws to implement them and for 75 years they have not yet been fully implemented, but gradually they are being implemented, and why? Because only when the actual enforcement is sought from the people gradually do they recognize that this is one Nation, and that they must recognize the supreme authority.

Senator SMITH. Let me ask you this question: If that is true, why have we not followed right through on it with our adjustment of labor disputes? It is just the same reasoning exactly that we are discussing here. It is because of the delicate human relations involved.

Mr. ERSTEIN. I know that.

Senator SMITH. And you cannot any more tell people that they must settle their labor disputes in this way, by fiat, than to say to people, You must enjoy your relationships with your neighbors. It is for that reason, as you know, that we very wisely started with employers of 50 or more and did not go down to 6 or more because we realized the delicate relationships in the matter.

We must realize the fact that you and I have our favorites among friends. Those things exist and we have got to move in toward this nondiscrimination against economic opportunity by the road that we see ahead. You cannot make me believe for one minute that in an area where public opinion is against enforcement of a law like that that all the king's horses and all the king's men can make it effective any more than you could make prohibition effective in those States that did not want to be dry.

Mr. ERSTEIN. Senator, public opinion is subject to gradual encroachment and change and despite even public opinion, those who are subject to a law which is ultimately enforceable and where you had the experience where mediation has taken place, where the appeal to

the courts has been taken, where they have had every avenue of approach to reasonable tribunals, when you reach that final stage, the Federal effect of that final stage cannot be overlooked, Senator.

Senator SMITH. Let us suppose for the purpose of argument we put in this bill the kind of reservation that States by affirmative legislative act would not be subject to the enforcement provisions of section 8. How many States, do you think, would want to put themselves on record before this country as taking that position?

Mr. ERSTEIN. I hesitate to say, but I shudder to think what might be the result on the economy of the country and the moral tone of what might result from this.

Senator SMITH. That is a matter of opinion.

Mr. ERSTEIN. I should like the opportunity, if you will, because this question I have just drawn from the press, and have tried to think aloud on it.

Senator SMITH. The press has quoted from my first hearings and did not quite get it.

Mr. ERSTEIN. I appreciate that is so, but I should like the opportunity to prepare a brief on the legal implications of your suggestion as well as the suggestion which I understand you have thrown out for discussion.

Senator SMITH. I value your views. I realize the study you have made, and your sincerity.

I think we both want to see a gradual process of bringing about the establishment of this principle. We both want to see it effective; we do not want to see us move so fast there would probably result some adverse effects and we would find ourselves going backward. We do not want to see us in the shape of the prohibition law. We do not want them to be coerced to do so and then have to repeal the law. I do not want to see this law repealed. Do not let us hurry this thing. Move as slowly as we have to move to make it stick and have it enforced. As soon as you antagonize people against a law, because they say it tends to put the arm of the law in our jurisdiction, that before they discuss the merits of the bill they resent it. That is what I am afraid of, and so I say to them, if you people claim that you can bring about this change by the conciliation and education processes, we are going to let you take affirmative action by your legislature and we are going to let you out of that arena until we see what you do, and we warn you if you do not make it work you will get what everybody else is willing to take, namely, compulsion.

I look upon it as a temporary expedient at the moment.

Mr. ERSTEIN. As an individual, the basic legal argument against it, and I view it with grave concern, is the necessity for coming back to the Congress of the United States for a second bill to amend this bill to enforce it against the States where they have not complied.

Senator SMITH. I just put it out; my judgment is you would not have to.

Senator IVEA. I would like to ask a question there following Senator Smith's line of reasoning, because I think the three of us, Mr. Epstein, Senator Smith, and myself, have probably a similar idea as to the speed with which this thing can actually be put into execution in every part of the United States.

In my own theory, through the mandatory conciliation and mediation processes and the program of education which can be delayed as much as may be necessary, you are not violating the law if it takes a little more time to solve one case than it does to solve another one. By that process this thing can be handled without making the exceptions we are talking about.

Now, there seems to be slight variation in opinion along that line. There seems to be the theory that if there is premeditated delay of the kind I have indicated, there is thereby actually nonenforcement or indeed, violation if you want to call it that. I do not view it that way. I would like to get your thought along that line.

Mr. ERSTEIN. If I may say, Senator, "premeditated delay" was probably ill-chosen because what you mean, as I view it, is not premeditated delay but a premeditated, carefully, and well-designed tactful approach within the community in which it is sought to bring those forces to bear.

Senator IVES. I will accept your five words in place of my one; they sound a lot better.

Mr. ERSTEIN. In the light of my knowledge of the Senator in the Legislature of the State of New York, I would say, touché.

But it is terribly important, with all of those procedural steps that must be taken, that everyone in the United States, employer and employee alike, recognize and realize that in the end result there is the power of exercising the legal sanction; and entirely aside from the constitutional argument which I have advanced that for the Congress of the United States to delegate to the States the power, to create a power of secession, and an act of Congress which would deny the equal protection of the law, is unthinkable to me.

Nevertheless, aside from that, I would say the educational force of a statute or amendment to the Constitution depends upon what is going to be the end result which you never may reach because of the tremendous force of the educational provisions which precede throughout the procedural steps through this bill to that ultimate result.

I thank you very much.

Senator SMITH. I hope you will send us that brief.

Mr. ERSTEIN. I shall be happy to send it.

(Subsequently Mr. Epstein submitted the following memorandum:)

MEMORANDUM ON SUGGESTED AMENDMENT TO S. 984—EMPLOYMENT ANTIDISCRIMINATION BILL.—STATE OPTION ON ENFORCEMENT PROVISIONS

STATEMENT

The subjoined memorandum is offered in opposition to the suggestion that an amendment to S. 984 be considered by the Senate of the United States designed to offer States the option of withdrawal from the enforcement provisions of the proposed bill.

S. 984, cosponsored by Senators Smith of New Jersey and Ives of New York, is a bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry. The provisions of the measure contemplate both an educational approach and in necessary cases, legal sanctions. Opposition is strong from States containing large Negro populations or other minority groups. A suggestion has been made that it might be expedient as well as feasible to permit States to withdraw from the provisions of ultimate legal enforcement of the bill, doing so by legislative act of the States. The thought behind the suggestion is that it may well aid in passage of the bill and offer the educational advantages to even such States as withdraw from the enforcement provisions.

It is respectfully submitted that the suggested amendment repudiates the very policy and purpose stated by the bill to be the congressional intent; would nullify the entire intent of the act itself; would make the act unconstitutional in its entirety; would violate principles of sound public policy; and would make enforcement utterly impracticable.

I. STATE OPTION ON ENFORCEMENT NULLIFIES THE BASIC PURPOSE AND CONGRESSIONAL INTENT OF THE ACT

The findings and declarations of policy set out in the act clearly and explicitly enunciate the compelling and laudable purposes which dictated its adoption. Therein Congress has itself condemned the discriminatory practices as "incompatible with the Constitution"; the right to employment, free from discrimination, as a civil right; and the act as the implementation of solemn treaty obligations undertaken by the United States in the United Nations Charter.

Section 2 (a) of the act declares that:

"Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and equality of opportunity, is incompatible with the Constitution, etc."

Thus, the unconstitutional incompatibility of discrimination in employment is the solemn declaration and finding of Congress itself.

The act further declares in section 2 (b) that the right to such employment without such discrimination is recognized as and declared to be a civil right of all the people of the United States. How can Congress in the self-same act permit States to violate and abrogate a declared civil right of any citizen of the United States?

Further, the act declares in section 2 (c) :

"This act has also been enacted as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof."

To provide by local option an avenue of escape from the congressional act would be tantamount to a declaration that any State may, at its option resolve that these intentions shall not obtain or be put into operation within its borders.

This act is not necessary for those States already committed to local laws barring racial or religious discrimination in employment. The State option amendment as to the enforcement provisions of the act would make it, in effect, not operative only in other States. Thus, basically, the proposed amendment would maintain the prospect of fulfillment of the right to a job without discrimination, subsequent to enactment of the act, in no better status as prior to its enactment. The ultimate effect would be worse.

The intention of the act as expressed in the findings and declaration of policy would be nullified and largely abrogated by the proposed amendment. In consequence, every contention and reason set forth in favor of enactment of the act, would likewise be a compelling argument against the amendment.

II. THE ENTIRE BILL WOULD BE JEOPARDIZED BY AN AMENDMENT SO CLEARLY UNCONSTITUTIONAL AS THE SUGGESTED STATE OPTION ON ENFORCEMENT

(a) *State action, which is contrary to declared policy pursued in Federal regulation of interstate commerce, is unconstitutional as an infringement upon the federally delegated powers granted by the commerce clause of the Constitution.*—It is recognized that Congress may grant permission to the States to legislate over matters involving interstate commerce where the intent is to achieve legislative coordinated action between the Nation and the States. Where, however, the State action has the effect of avoiding or nullifying the congressional intent expressed in the Federal statutes affecting a particular phase of interstate commerce, then the State has exceeded its powers under the Constitution. This is so, even though the particular State action is allegedly an exercise of the police power of the State and in the interest of the public welfare.

The Supreme Court, in the matter of *Southern Pacific Co. v. Arizona* (325 U. S. 761, 766), stated:

"Congress, in enacting legislation within its constitutional authority over interstate commerce, will not be deemed to have intended to strike down a

State statute designed to protect the health and safety of the public unless its purpose to do so is clearly manifested (lifting cases), or unless the State law, in terms or in its practical administration, conflicts with the act of Congress, or plainly and palpably infringes its policy." [Italics ours.]

The declared policy of Congress expressed in this act would be nullified by State action to exempt violators of the act from punishment. Such nullification is beyond the power of the States under the commerce clause of the Constitution.

(b) *State action to prevent operation of the enforcement provisions of the act would be unconstitutional as a violation of the fourteenth amendment, in that it is an abridgment of a privilege and immunity of a citizen of the United States.*—The right to employment without discrimination on account of race or religion is a Federal civil right. This is explicitly enunciated in the act, in its findings and declaration of policy (secs. 2 (a), 2 (b), and 2 (c).) State action which infringes upon this right would be violation of the fourteenth amendment, which prohibits State invasion of civil rights. The privileges and immunities of citizens of the United States are safeguarded by the amendment against infringement by the States (*Slaughterhouse cases*, 16 Wall. (U. S.) 80).

Mr. Justice Bradley, in delivering the majority opinion of the Supreme Court in the (*Civil Rights cases*, 100 U. S. 8), stated:

"The 1st section of the fourteenth amendment which is the one relied on, after declaring who shall be citizens of the United States, and of the several States, is prohibitory in its character and prohibitory upon the States. It declares that 'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.' It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the laws."

The exercise of the local option to exempt employers within a State from the enforcement provisions of the act would be unconstitutional. For Congress to grant to the States the right of such election is in itself in contravention of the Constitution, and especially of the intent and purpose of section 5 of the fourteenth amendment, which reads as follows: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

(c) *State action which is opposed to the laws of the United States made in pursuance to the Constitution or to treaties made under the authority of the United States is unconstitutional as a violation of article VI of the Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made under the authority of the United States shall be the supreme law of the land.*—The act makes an express finding of policy that it is a step toward fulfillment of the obligations imposed on the United States by the United Nations Charter, an international agreement to which the United States has subscribed. These obligations are binding on all the United States, and Congress is without power under the Constitution to delegate to the States power to disregard such treaty obligations by State legislative action.

The act also makes an express finding of policy that the right to employment without discrimination because of race, religion, color, or national origin or ancestry is a civil right of all the people of the United States. The enforcement provisions of the act then protect that right by setting up certain penal sanctions against employers and unions who violate that right. Under article VI of the Constitution the act is the supreme law of the land. Congress may not, therefore, add to the act a provision that would permit nullification of any portion of it by the action of a State legislature. Thereby the obligation, international in character, implemented by the act, becomes the law of only part of the land, not of the United States.

III. STATE OPTION ON ENFORCEMENT IN CONTRARY TO ESTABLISHED PRINCIPLES OF SOUND PUBLIC POLICY

State option on enforcement provisions of the act would emasculate the act and make it ineffective in some sections of the country.

It would give legislative sanction to the deprivation of declared rights of citizenship. It would give legislative sanction to setting up different classes of citizenship; to condemning large segments of our population to substandard conditions of living, to fomenting industrial strife and domestic unrest, and to depriving the United States of the fullest utilization of its capacities for production.

It has been pointed out that Congress on at least 23 different occasions in the years 1933-44 has outlawed racial and religious discrimination in legislation for public works projects, the Civilian Conservation Corps, unemployment relief, civil-service classification, National Youth Administration, and other acts (90 Congressional Record, pt. 10, p. A3325 (1944)).

It is the expressed and recognized policy of the United States to prevent racial and religious discrimination. The Charter of the United Nations provides that "the United Nations shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race" and that "all members pledge themselves to take joint and separate action" for that purpose (art. 55c; 56). Shall we give sanction by affirmative act permitting local option to nullify what we profess herein as signatory and principal proponent? Shall we create the machinery whereby States may reject treaty obligations entered into on their behalf by the Government of the United States?

On June 29, 1947, in an address to the Conference of the National Association for the Advancement of the Colored People, at the Lincoln Memorial, the President of the United States said:

"For these compelling reasons, we can no longer afford the luxury of a lopsided attack upon prejudice and discrimination. There is much that State and local governments can do in providing positive safeguards for civil rights. But we cannot, any longer, await the growth of a will to action in the slowest State or the most backward community."

IV. STATE OPTION ON ENFORCEMENT RENDERS THE ACT'S ENFORCEMENT UTTERLY IMPRACTICABLE

Should State option be exercised to prevent Federal enforcement of the act in some States, there would arise inherent difficulties that would insure failure of the act in action and would retard its enforcement in areas where local option permits enforcement.

The act applies to employers of 50 or more engaged in interstate commerce. The proposed amendment would create a means toward wholesale evasions of the act by means of transference by industries of their employment offices to areas where enforcement of prohibition against discrimination in employment does not exist. Thus, railroads and other carriers and business enterprises doing business in several States could choose the State within which they would not be subject to the enforcement provisions of the act and thus avoid the requirements of the act. Circumstances of avoidance could be multiplied, unhampered by legal restraint, which would for all practical purposes make the act unenforceable. It might give rise, as well, to unfair competitive advantages for those who succeeded in avoiding and evading the act.

Moreover, State option on enforcement provisions of the act might cause shifts by industries to subsidiaries in States where there is no enforcement. Conversely the greater opportunities in States where minorities received protection against discrimination in employment would cause substantial population shifts. These phenomena would operate to cause harmful dislocations in our economy such as we found so widespread during the recent war and which contributed to the creation of a housing problem and health hazards.

The enforcement provisions of the act endow it with the strength of accomplishment of the ends sought. There may very well be little or no resort to the enforcement provisions; their presence in the act is a sufficient deterrent. This has been proven by the history of the operation of the fair employment practices acts in the States which have adopted them.

The following statement by the President's Fair Employment Practices Committee in its final report dated June 28, 1946, is significant on this point:

"Discriminatory practices, if they can be solved by negotiation, are the more quickly ended when the National Government makes clear that its authority will be exercised against offenders. Such authority need be sparingly used. Its mere existence serves to ease the way to settlements at every stage of negotiation." Respectfully submitted.

NATIONAL COMMUNITY RELATIONS ADVISORY COUNCIL
HENRY EPSTEIN, *Chairman*.

Of counsel:

SOL RARKIN,

JACK SITAM.

Senator DONNELL. Mr. Clarence Barbour.

STATEMENT OF CLARENCE BARBOUR, REPRESENTING STUDENTS FOR DEMOCRATIC ACTION, UNIVERSITY OF NORTH CAROLINA

Senator DONNELL. Mr. Barbour, will you please state your name, address, and occupation?

Mr. BARBOUR. I have that here prefaced in my testimony. I will answer the question, though.

Senator DONNELL. Very well.

Mr. BARBOUR. My name is Clarence Barbour. I am a resident of Chapel Hill, N. C., and a student of the University of North Carolina.

Senator DONNELL. Will you proceed with your testimony?

Mr. BARBOUR. I am representing Students for Democratic Action. This organization is of non-Communist progressive students.

Senator DONNELL. May I interrupt you right there? Does the organization have a constitution in which it negatives the right of an individual as a Communist to belong to it?

Mr. BARBOUR. It does, sir.

Senator DONNELL. You have it here?

Mr. BARBOUR. I have a copy of that constitution here.

Senator DONNELL. Would you be kind enough to read to us the particular sentences to which you refer?

Mr. BARBOUR. I have also a membership card.

Senator DONNELL. First, the sentences of the constitution, if you will.

Mr. BARBOUR. They are identical.

Senator DONNELL. If you will just give us the language that is contained in the constitution.

Mr. BARBOUR. All right, sir.

Since the wording of the two are identical, would it be all right if I read it?

Senator DONNELL. If the wording is identical.

Mr. BARBOUR. The Students for Democratic Action is an organization of progressives dedicated to the achievement of freedom and economic security for all people everywhere, through education and political action. We believe that rising living standards and lasting peace can be attained by democratic planning, enlargement of fundamental liberties, and international cooperation.

We believe that all forms of totalitarianism, including communism, are incompatible with these objectives. In our crusade for an expanding democracy and against fascism and reaction, we welcome as members of SDA only those whose devotion to the principles of political freedom is unqualified.

Senator DONNELL. Proceed.

Mr. BARBOUR. We are the student division of Americans for Democratic Action.

Senator DONNELL. Would you tell us what the Americans for Democratic Action is?

Mr. BARBOUR. Well, it is a liberal movement in this country. It is an organization of liberal-minded people, leaders in various communities over the country. Our constitution was drawn up, ratified, as of March 29 in convention in Washington.

Senator DONNELL. This year?

Mr. BARBOUR. This year; 1947.

Senator DONNELL. That is, the organization of Americans for Democratic Action is an organization created in the year 1947. Is that right?

Mr. BARBOUR. Yes, sir.

Senator DONNELL. And your division of Students for Democratic Action was likewise, therefore, created in this present calendar year?

Mr. BARBOUR. Yes; in a convention of Students for Democratic Action which was, previous to our affiliation with ADA, the United States Student Assembly, and we are now a division of the ADA.

Senator DONNELL. That is to say, your organization had previously existed as the Student Assembly.

Mr. BARBOUR. Yes, sir.

Senator DONNELL. How old an organization is the Student Assembly?

Mr. BARBOUR. That, sir, I will have to get that information. I do not have it here with me.

Senator DONNELL. How long has it been in existence—for several years?

Mr. BARBOUR. Yes, sir; and then taken over as a division of the SDA.

Senator DONNELL. Where was this convention at which the Students for Democratic Action was organized held?

Mr. BARBOUR. In Washington.

Senator DONNELL. How large an attendance was present at that convention?

Mr. BARBOUR. I do not know.

Senator DONNELL. Were you present?

Mr. BARBOUR. I was not.

Senator DONNELL. Do you know how many members Americans for Democratic Action has?

Mr. BARBOUR. Well, I have the approximate number here. Our membership is in the neighborhood of 4,000.

Senator DONNELL. You mean by "our," total membership?

Mr. BARBOUR. Student membership.

Senator DONNELL. I am asking for intermembership of the Americans for Democratic Action, which I understand is a larger organization.

Mr. BARBOUR. I am representing here, not the Americans for Democratic Action but the division of Students for Democratic Action.

Senator DONNELL. Which is it that has a membership of 4,000?

Mr. BARBOUR. Students division.

Senator DONNELL. What I am asking is, What is the membership of ADA? Do you know?

Mr. BARBOUR. I do not know.

Senator DONNELL. Who is head of that organization?

Mr. BARBOUR. Mr. Wilson Wyatt is the chairman.

Senator DONNELL. Formerly here in the housing work?

Mr. BARBOUR. Yes, sir.

Senator DONNELL. Is he the president of it?

Mr. BARBOUR. He is the chairman.

Senator DONNELL. Do you have a copy of the constitution of that organization?

Mr. BARBOUR. Yes, sir.

Senator DONNELL. You have it here with you?

Mr. BARBOUR. I think I have it here.

Senator SMITH. May I ask this one question?

Do you admit democratically minded representatives to your organization?

Mr. BARBOUR. I think that is obvious, sir; yes.

Senator DONNELL. Do you have any very active chapters in the northern universities?

Mr. BARBOUR. We have active chapters, sir, on northern, western, midwestern campuses, as well as the southern ones. I am speaking primarily for the SDA division of students.

Senator DONNELL. That is what I am talking about—the northern universities.

Mr. BARBOUR. Yes, sir.

Senator SMITH. What ones are there up north? I do not want to get the chairman's question sidetracked here, but I am curious about the ones which are in New York or New England, for instance.

Mr. BARBOUR. I cannot remember the specific campuses, but I can get that information for you.

Senator DONNELL. What organizations do you have south of the Mason and Dixon's line, Mr. Barbour? What colleges?

Mr. BARBOUR. We have an organization of students organized on the campus of Georgia Tech; University of North Carolina; Williams College, in Greensboro, N. C.; and Winthrop College, Rock Hill, S. C.

Senator SMITH. Mr. Chairman, the purpose of my facetious question was really to ask you whether it is a political organization or not.

Mr. BARBOUR. It is political.

The policies of my organization are made by representatives of all chapters in an annual national convention. Between conventions, the national board and national executive committee are empowered to make policy. At our first national convention in Washington, March 28-30, 1947, a program was adopted which included the statement, "SDA will actively support State and National FEPC bills." In accordance with this section of the program, the national executive committee at its meeting of June 3, 1947, passed the following resolution—

Senator DONNELL. Where was that meeting of June 3, 1947, held?

Mr. BARBOUR. That question places me in a very embarrassing position. I am of the opinion that it met in Washington.

Senator DONNELL. Do you not know where it met?

Mr. BARBOUR. Am I free to ask my colleagues?

Senator DONNELL. Did you prepare this statement?

Mr. BARBOUR. I prepared this statement here, but this information was given to me by those whom I represent.

Senator DONNELL. All right. Who is present here that knows where that meeting was held?

Mr. SELLERS. Here in Washington.

Senator DONNELL. At what place?

Mr. SELLERS. 1740 K Street.

Senator DONNELL. How large an attendance was there?

Mr. SELLERS. I am not sure. I was not present at the meeting. But I think there were about 15 persons on the executive committee.

Senator DONNELL. You do not know how many members were there?

May I inquire the name of the gentleman who has been furnishing the answers to these questions?

Mr. SELLERS. My name is Charles Sellers. My home is in North Carolina. I am temporarily in Washington with Students for Democratic Action.

Senator DONNELL. Very well; go ahead, Mr. Barbour.

Mr. BARBOUR. I shall now read the resolution to which I referred a minute ago [reading]:

Whereas the national convention of Students for Democratic Action pledged SDA to work for the establishment of a fair employment practices commission to eliminate glaring inequalities in economic opportunity in American life; and

Whereas the passage of S. 984 would set up such a commission with adequate enforcement powers; Therefore be it

Resolved, That the national executive committee endorses S. 984; and be it further

Resolved, That Clarence Barbour, of the University of North Carolina chapter, is authorized to appear before the appropriate Senate committee to support S. 984 on behalf of Students for Democratic Action.

As students we are especially interested in securing FEPC legislation. Many among us will be discriminated against when they leave school and try to secure jobs equal to their ability and training. This group includes the members of many minorities in northern schools as well as Negroes in their separate schools in the South. It is a tragic fact that many of these fellow students of ours are preparing themselves for jobs which they will never be able to secure.

Senator DONNELL. On what do you base that statement, Mr. Barbour? How do you know your fellow students will not be able to secure positions for which they are fitting themselves?

Mr. BARBOUR. I am speaking now of the Negro students, and I am speaking from my own experience and my acquaintance with Negro students.

We have on our campus Negro students that have finished college, others who have some college training who are working as waiters in restaurants, and in my experience in the South I have been most familiar with students in the same position who have trained themselves in college, but have not been able to follow the line of work for which they were trained.

Senator DONNELL. Now, these young people who are working in restaurants as waiters—are they going to school?

Mr. BARBOUR. No, sir.

Senator DONNELL. Have they finished school?

Mr. BARBOUR. Absolutely.

Senator DONNELL. Very well, and it is on that fact and knowledge of that fact that you base your statement?

Mr. BARBOUR. On their statements.

It is a social tragedy that the skills and capacities which they are developing will be lost to the community.

It is no wonder that there is a growing bitterness among the members of minority groups in our schools. The same resentment is, to a lesser extent, felt by all students because of the discrepancy they find between the democracy expounded in American history courses and the democracy they find practiced in the community. Members of our organization have been very active in trying to do away with discrimination in a number of places. Some other students have felt so keenly the injustice of discrimination that they have lost faith in democracy itself and have been taken in by the program of the Communist Party and its agencies which promises to establish the equal opportunity which democracy should guarantee. It is my belief that discrimination against minority groups is the most important single reason for the limited but expanding foothold which communism has gained in American schools.

I also speak to you as a veteran. During my 6 years in the Marines, both in the Caribbean and the Pacific, I saw Negro, Jewish, and foreign-born Americans working side by side with other marines to preserve a democracy which promises them an equal right with every other American to make a living. But they are now finding that they were fighting for a theory, and that in practice they are facing the same old barriers. For the first time in the history of any country, the youth of all minority groups are being given the opportunity, through the GI bill of rights, to develop their capacities and skills by education and on-the-job training. But what a mockery it is to turn educated and skilled young men and women out into a society which will allow them to work only as ditch diggers, domestic servants, and unskilled laborers of other kinds. On my own campus there are a number of Negro college graduates working as maintenance labor, maids, and waiters.

I realize that I am also speaking to you as a southerner. The violent reaction of certain southern editorialists to FEPC has created the impression that the South is universally and implacably opposed to it. I am here today to tell you that other southerners feel that the poor economic position of the southern Negro, maintained by job discrimination, is one of the biggest impediments to southern progress. Such southern newspapers as the Birmingham Age-Herald, the Montgomery Advertiser, the Anniston Star, the Macon News, and the Raleigh News and Observer praised the work of the President's FEPC during the war. I understand that Mr. Paul Williams is also to appear before the committee to support the bill on behalf of the Southern Regional Council, an organization of outstanding southern leaders whose long experience in the field of southern development gives it peculiar qualification to speak on this problem. In my own small college community, Chapel Hill, the present bill has been endorsed by Dr. Frank P. Graham, president of the University of North Carolina, and by Rev. Charles Jones, pastor of the Chapel Hill Presbyterian Church.

There is no need to labor the fact that the South is, in the words of President Roosevelt, "the Nation's No. 1 economic problem." To build a prosperous economy and good life for its people, the South must achieve, with the rest of the country, full employment of its natural and human resources. Full employment must be based on both a high

rate of production and high rate of consumption, or purchasing power. Basic to the economic problem of the South is the fact that the Negro third of its population participates in neither production nor consumption to anything like a full extent. Before the South can hope to solve its problems, it must make a concerted effort to use all of its human resources at their highest rate of productivity, regardless of race or color.

I want to give you a brief sketch of the depressed condition of the Negro population of my own State of North Carolina, as it is affected by job discrimination, based on a study made in 1944 by the North Carolina State Board of Charities and Public Welfare.

In regard to housing, in 1940 only one-fourth of the Negroes in the State owned any real property whatever, and even then property owned by nonwhites was valued at an average of \$826 per person, compared with \$2,071 per person for whites. About 24 percent of all owner-occupied dwellings for nonwhites were valued at less than \$300, as compared with only 10 percent of white owner-occupied dwellings. As for the three-fourths of the Negro population who rented their homes, anyone who has been in a southern city or town is conscious of the miserable conditions under which they were living. Four hundred and thirty-one of every one thousand white owners had mechanical refrigeration, as compared with only 87 nonwhite owners. Among tenants, 306 whites had such equipment and only 22 nonwhites.

Speaking of health, in 1940 there was 1 white physician to every 1,127 white persons, as compared with 1 Negro physician to every 6,499 Negroes. Tuberculosis was responsible for 8.8 percent of Negro deaths as compared with 2.2 percent of white deaths. Negroes also had a greater death rate than whites from syphilis, malaria, and pneumonia. These conditions largely result from unhealthy environment, poor food, and inadequate medical care, all directly resulting from low income.

With reference to crime, in the period 1910-13, 308 persons were executed by the State, of whom 254 were Negroes. Of those executed for murder, 200 were Negroes, and 49 whites. Although 275 out of every 1,000 persons in the State are Negroes, 500 of every 1,000 male prisoners working on the highways are Negroes. Arrests for assault and larceny are twice as high among Negroes as among whites. These conditions are certainly intimately related to poor health, crowded and inadequate housing, poverty, and lack of economic opportunity.

North Carolina's leaders have time and again proclaimed the special responsibility of the State for its Negro people. Our most popular twentieth-century Governor, Charles B. Aycock, threatened in 1903 to resign from office if appropriations for Negro education were restricted to tax funds received from Negro taxpayers. North Carolina is one of the few States which has an antilynching law and which has sent a man to prison for lynching. Only a few years ago, North Carolina pointed the way for the South by equalizing salaries for its white and Negro school teachers. And today North Carolinians are coming more and more to realize the cost to the State of restricted economic opportunities for the Negro. The direct costs in terms of expenditures for welfare, care of the handicapped and orphaned, public health, old-age pensions, unemployment insurance, and prevention of crime are not themselves as serious as the barrier to eco-

nomie progress or waste of skills and leadership and lack of purchasing power. In a Nation-wide radio broadcast in 1944, Governor Broughton emphasized the fact that the progress and prosperity of the South as a whole depended on the progress and prosperity of its Negro citizens; he acknowledged that Negroes were entitled to equal facilities and opportunities not only with respect to health, housing, transportation, and education, but also with respect to employment.

The low status of the State's Negro people is in no sense due to a reluctance to work. In 1940, 572 of every 1,000 Negroes over 14 years of age were working for a living, as compared with 535 of every 1,000 whites in the same category. At the same time the percentage of Negroes out of work and looking for a job was twice as high as for the white population. But the significant fact is that most of the Negroes employed were in agriculture, domestic service, and the unskilled and semiskilled jobs in industry.

North Carolina has led the other Southern States in industrial development, but most of the job opportunities created have been for white people. One of the results has been that Negroes have had to continue to eke out a meager existence in a depressed agriculture, having a much higher proportion of their total population engaged in farming than the whites have. Only the tobacco industry has furnished a large employment opportunity for Negroes, and then in the more poorly paid jobs. A Federal FEPC could gradually open up to the Negro population fair opportunities for employment, through which they would be able to raise their living standards and make a positive contribution to the progress of the State.

The great cry raised in the South against FEPC is that it is a diabolical plot to destroy segregation, but recognizing that desirable change must be brought about within the framework of the deeply rooted institution of the South, I want to assert my belief that FEPC can work effectively below the Mason and Dixon line, and without arousing dangerous racial tensions and conflicts.

In the first place it should be emphasized that experience under the wartime FEPC, the New York State FEPC, and the Minneapolis municipal FEPC indicates that most cases will be settled by negotiation, and that cooperation with management and labor in educational programs for employees will be an important part of administration. In the few cases which will go to the courts for enforcement the bill contains elaborate provision for full hearing of all parties and complete judicial review.

I am particularly impressed by the wisdom of the provision of the bill for setting up State and regional committees to study discrimination in their own areas and to advise with the Commission in shaping its policies to eliminate discrimination there. I am sure that, guided by such a committee, the FEPC would carry out its program in my State with discretion and effectiveness and that it would not stir up the resistance predicted by its opponents.

The most telling evidence that FEPC can work in the South is the long record of instances where southern whites and Negroes have worked together in plants and labor unions. The cases cited in the following paragraphs include both those where Negroes have been provided with equal employment under conditions of segregation and cases where whites and Negroes have worked side by side. I do

not believe that the present bill authorizes the Commission to proceed against segregation unless segregation is the cause of unequal treatment. However, there are already many places in southern industry where segregation is not enforced, and these cases may well be multiplied in situations which are ready for it.

The examples immediately following are selected from a series of cases in Alabama, Arkansas, Georgia, Louisiana, Tennessee, and Virginia described by Dr. Charles S. Johnson, of Fisk University in a study published this year—*Into the Main Stream*, University of North Carolina Press, Chapel Hill, 1947.

This company took over the management of this shipyard on February 1, 1943, at which time there were employed in the yard a total of about 400 clerical workers and a small number of semiskilled workers. At the time we suggested to the union and other agencies interested in employment practices that we follow the rule of no discrimination as to race and give the colored race an opportunity in the skilled crafts.

Due to geographical location we have always felt that intermingling is not conducive to the best interest, and we therefore set aside our third shift for Negro workers in the skilled classifications, whose opportunities for advancement and whose rates of pay are on a par with those of the white race. The same conditions and opportunities are given to the Negroes that are extended to the white workers. The unions have set up an auxiliary local for the colored workers, with their own business agents and officers, and they have been cooperating with us in every way. Since we started the employment of Negro skilled workers we have extended them to the second shift as well as to the third shift in the welding department, usually segregating them on a specific job. We have had satisfactory results.

* * * * *

This sheet mill employs about 1,700 workers, of whom 75 percent are colored. Wages start at a basic minimum of 40 cents for all workers.

* * * * *

This coal and iron company employs about 15,000 men, of whom about 6,000 are Negroes. Negroes and whites start at the same basic wage. Probably about half of the Negroes are in skilled and semiskilled work; they rise as high as subforemen, and make as high as \$14 or \$15 a day. In some cases the work is departmentalized by race; in some cases Negroes and whites work side by side.

* * * * *

This metalworking company employs about 1,050 workers, of whom about 200 are Negroes. The starting wage for both is 45 cents. Two out of twenty workers in one highly skilled occupation are Negroes; two out of five in another; hardly any Negroes are left in the 45-cent class. The personnel manager is proud of his skilled workers and says that neither he nor the white employees would trade them for whites.

Even the textile industry, which has traditionally allowed Negroes in only such minor jobs as sweepers, is now upgrading them in many instances. One textile plant in Danville, Va., has Negro and white women working side by side in semiskilled jobs. The President's FEPC recommended as "worthy of praise" in the employment of Negroes the North Carolina Shipbuilding Corp. at Wilmington, the Newport News Shipbuilding Co. at Newport News, Va., the Higgins Shipbuilding Co. at New Orleans, La., and the J. A. Jones Construction Co. at Brunswick, Ga. The president of the Higgins Shipbuilding Co. announced at the outset his policy of employing Negroes without discrimination. The company employed thousands of workers of both races, operated separate training programs for them at its own expense, and worked on a basis of equal opportunity and equal wages for the same skill.

The experiences of labor unions in the South show that white and Negro men can work together on a basis of mutual respect and justice. The CIO has from the beginning rejected segregation in its unions. A southern war labor conference of the A. F. of L. in 1943 declared against any discrimination whatever. 'The United Steelworkers and the United Mine Workers are examples of unions in which racial co-operation has been highly successful; many locals have white presidents and Negro vice presidents.' Many other unions insist on equal treatment for Negroes, whether in separate locals or in the same locals with white members. Many examples of successful union functioning on these principles might be cited, but the following case of a Negro steelworker in the Birmingham area is representative:

A colored worker had for a number of years, even before the union was formed, held a job as jobbing mill sheerman at the - - - company. The job paid about \$10 a day, and the worker was an ardent union man. A white worker, a nonunion man, persuaded the superintendent of that department to give him the job, stating that he was better qualified for it physically and mentally. The colored worker appealed to the mill committee, all southern-born white men, claiming that his seniority rights under the contract had been violated. The committee upheld his contention and demanded that he be put back on the job. The white man hurriedly joined the union and appeared at the next union meeting to ask the local to override the decision of the mill committee. There were two-thirds more whites than colored present when the white worker took the floor to tell why he should have the job. The committee countered that they were carrying out the terms of the contract and that the colored worker was entitled to the job on the basis of seniority. The local, by an overwhelming majority, voted to sustain the committee and uphold the seniority rights of the colored worker.

In concluding, I want to take issue with those southern opponents of FEPC who assert that it will worsen race relations. FEPC would make a very direct contribution to better race relations by eliminating the fear on the part of white workers that Negro workers will be brought in to take over their jobs at lower wages. That this is not an idle fear is proved by the case of the Bibb Manufacturing Co. in Georgia. During the war the company staffed two of its plants with Negro operatives. The union which represents white workers in other plants of the company fears that in the event of a threatened cut in production the company will bring in the nonunion Negro operatives trained during the war to take over the jobs of the unionized white workers at lower wages. The union is afraid that, in spite of all it could do, the situation would result in violence on the part of the white workers being displaced. By making racial wage differentials illegal FEPC would eliminate this kind of racial economic competition and the fear and hate which it engenders.

But in a larger sense the South's racial problems can only be resolved as people come to understand each other on the basis of common interests and experiences. More and more in the South, in plants and unions and elsewhere, this kind of contact is laying the basis for real respect, understanding, and cooperation between the races. I remember particularly the session of the North Carolina Student Legislature, which I attended in the State capitol last year along with 225 students from both white and Negro colleges in North Carolina. In studying our State Government together we gained a new respect for each other as human beings.

This is the kind of respect that fair employment can bring about throughout the employment area. We do not desire an attack on

traditional southern institutions, but we do want the Negro and other minority groups to have justice and we believe that this will do much to heal the deep breach between peoples in the South. FEPC can do this job. And only as the job is done, can the South move on to utilize to the full her resources and to build a bountiful economy for all her people.

Senator DONNELL. Mr. Barbour, you are a student at this time at the University of North Carolina?

Mr. BARBOUR. I am, sir.

Senator DONNELL. In what department are you?

Mr. BARBOUR. I am in the general college, sir. I am a sophomore.

Senator DONNELL. A sophomore in the general college.

Mr. BARBOUR. I have not specialized as yet.

Senator DONNELL. Have you had occasion to study sociology in the course of your work in the University of North Carolina yet?

Mr. BARBOUR. I took an introductory course in it but as to an extensive study of sociology, under the direction of the professors I have not studied it. My study of it has been on my own.

Senator DONNELL. What are the major studies in which you have engaged in the university?

Mr. BARBOUR. At this time or that I have engaged in since I have been there?

Senator DONNELL. Since you have been there.

Mr. BARBOUR. I have studied Spanish as a foreign language, linguistics, comparative linguistics, English, mathematics, history, psychology—all of the required subjects.

Senator DONNELL. Yes.

You are vice president of the Students for Democratic Action chapter at the University of North Carolina?

Mr. BARBOUR. That is correct.

Senator DONNELL. That chapter has about 50 members?

Mr. BARBOUR. Approximately.

Senator DONNELL. What is the total number of the student body at the university?

Mr. BARBOUR. It is constantly fluctuating there, as on all campuses, for people constantly drop out, but I would say there are 6,000 students there.

Senator DONNELL. Would you say this subject of discrimination in the matter of employment has engaged the attention of any other student organizations?

Mr. BARBOUR. Yes, sir.

Senator DONNELL. What are those organizations at the University of North Carolina?

Mr. BARBOUR. I have only been at the University of North Carolina for the past quarter. I transferred from a smaller school down at Buies Creek, N. C., Campbells' college, a denominational school.

Senator DONNELL. Which denomination?

Mr. BARBOUR. Baptist.

Senator DONNELL. So you have been at the University of North Carolina only how many months?

Mr. BARBOUR. Approximately 7 months. I went there to work before I went to school. I worked for the Jones Construction Co.

Senator DONNELL. So you have been at the University of North Carolina about 7 months?

Mr. BARBOUR. That is correct, sir.

Senator DONNELL. And are you able to tell us what other student organizations at the University of North Carolina have considered this subject of discrimination in the matter of employment?

Mr. BARBOUR. I made that statement, sir, because of the lack of time, the briefness of the time I have been on the campus. I am not intimate with all of the organizations, but the church groups of all denominations, we will say, in the community of Chapel Hill are very active in dealing with these issues. We even have what they call the Carolina Conservative Club and they, amazing as it may seem, are very active.

Senator DONNELL. Is that in the university?

Mr. BARBOUR. That is a campus organization.

Senator DONNELL. I meant to confine my question to campus organizations.

What is the name of that last organization you mentioned?

Mr. BARBOUR. The University Conservative Club.

Senator DONNELL. Has it considered this matter of discrimination?

Mr. BARBOUR. That, sir, I do not know. I am only associated with individual members of the organizations. I do not attend their meetings. I do not have the time.

Senator DONNELL. I appreciate that.

Mr. BARBOUR. I only discuss these problems with the individuals who are members of those organizations and I assume that they follow the same policies.

Senator DONNELL. What I wanted to get at is whether or not these organizations—to your own personal knowledge—have been thinking on the subject of discrimination.

Mr. BARBOUR. I would not want to voice an opinion on that.

Senator DONNELL. You would not express any opinion as to whether there is any other student organization than the Students for Democratic Action on the campus of the University of North Carolina which has been considering this subject of discrimination in employment?

Mr. BARBOUR. I cannot speak for any other organization. I can only speak for those individuals of the organization whom I know and I might say in the light of some of the activities of the program that they have sponsored on the campus, I think it is generally known that the whole campus—it is the university policy—I am referring now to the sociology department, Dr. Odom's work in the department—I think the University of North Carolina is known throughout the country to be concerned with problems of the races.

Senator DONNELL. What I am trying to get at, Mr. Barbour, is whether any other student organizations of the University of North Carolina have considered the subject of discrimination in employment, to your knowledge. If you know, all well and good. If you do not know, all well and good.

Mr. BARBOUR. I do not know, sir.

Senator DONNELL. I think that is all, Mr. Barbour, and we thank you very much for presenting the testimony and for representing your organization.

Mr. DAVID D. LLOYD (Americans for Democratic Action). I represent the Americans for Democratic Action with which Mr. Barbour's

organization is affiliated and if there is any additional information which the Senator would like about that organization, we would be very glad to furnish that for the record.

Senator DONNELL. Thank you very much.

Mr. LLOYD. I also want to say that the subject of FEPC law in California has been mentioned several times in the record this morning, before the Senator arrived, I believe, and we have a representative here of the Americans for Democratic Action from California who would like, if possible, to have just a minute of time to give the Senators his views on—

Senator DONNELL. No, sir; it will not be practicable to take the oral testimony but if he desires to make a written statement we will be very happy to have it in the record.

In fact there is a letter which has come to me from California which I will offer for the record, if similar letters are not printed.

It will not be practicable to hear his oral testimony.

Mr. LLOYD. It would be germane to the general record. And if it would be inserted at an appropriate point.

Senator DONNELL. How soon can we have the written statement?

(Subsequently Mr. Lloyd transmitted the following communication:)

AMERICANS FOR DEMOCRATIC ACTION.

Washington 6, D. C., June 20, 1947.

Mr. PHILIP R. RODGERS,

Clerk, Labor and Public Welfare Committee,
United States Senate, Washington, D. C.

DEAR MR. RODGERS: Pursuant to the request made during the hearings yesterday before the subcommittee of the Senate Committee on Labor and Public Welfare concerning S. 984, I transmit the following information concerning Americans for Democratic Action, an organization which sponsored the appearances of Mayor Hubert H. Humphrey, of Minneapolis, and Mr. Clarence Barbour, of North Carolina, in behalf of the bill.

Americans for Democratic Action was established at a national conference in Washington, March 29-30, 1947, when a constitution and a statement of policies were adopted and officers were elected. The national officers and the national board are as follows:

National chairman: Wilson W. Wyatt, Kentucky.

Chairman, executive committee: Leon Henderson, New Jersey.

Vice chairmen: Hubert H. Humphrey, Minnesota; Franklin D. Roosevelt, Jr., New York.

Treasurer: Louis H. Harris, New York.

Secretary of board: Joseph L. Rauh, Jr., Washington, D. C.

Executive secretary: James Loch, Jr., Washington, D. C.

Board members at large:

Harvey Brown, Washington, D. C.

Melvin Douglas, California.

David Dubinsky, New York.

George Edwards, Michigan.

Ethel S. Epstein, New York.

William Evjue, Wisconsin.

David Ginsburg, Washington, D. C.

Lester Granger, New York.

Sam R. Hoffmann, Pennsylvania.

James Killeen, Washington, D. C.

Frank W. McCulloch, Illinois.

B. F. McLaughlin, New York.

Othmer J. Mischo, Michigan.

Reinhold Niebuhr, New York.

Mrs. Gifford Pinchot, Pennsylvania.

Edward F. Prechard, Jr., Kentucky.

Bishop William Scarlett, Missouri.

Arthur M. Schlesinger, Massachusetts.

Paul A. Porter, Washington, D. C.

Arthur M. Schlesinger, Jr., Massachusetts.

Maurice Sweetland, Oregon.

H. L. Mitchell, Tennessee.

Mrs. M. E. Tilly, Georgia.

Other board members:

Mrs. Jim Akin, Illinois.

William Huff, Jr., Pennsylvania.

Leigh Danenberg, Connecticut.

Melvin Douglas, California.

Mortimer Hayes, Connecticut.

Louis J. Hexter, Texas.

Edward Hollander, Washington, D. C.

Edward Lindeman, New York.

Don S. Wilner, Massachusetts.

At present Americans for Democratic Action has approximately 40 chapters in 20 States and is in the process of organizing local chapters elsewhere throughout the country.

Students for Democratic Action is an organization of students affiliated with Americans for Democratic Action, in which membership is open to college and university students. It has at present 70 chapters in 22 States. In the course of yesterday's hearings, Mr. Barbour stated that Students for Democratic Action is the successor of the Students' Union. The correct name of the organization to which he referred was the United States Student Assembly. In January of this year United States Student Assembly voted to change its name to Students for Democratic Action and become the student division of Americans for Democratic Action.

Membership in ADA and SDA is on a local chapter basis—that is, local chapters pass on the qualifications for membership and issue membership cards. Members in ADA and SDA upon joining must subscribe to the following declaration of principles:

"Americans for Democratic Action (or Students for Democratic Action) is an organization of progressives, dedicated to the achievement of freedom and economic security for all people everywhere, through education and democratic political action.

"We believe that rising living standards and lasting peace can be attained by democratic planning, enlargement of fundamental liberties and international cooperation.

"We believe that communism, like all forms of totalitarianism, is incompatible with these objectives. In our crusade for an expanding democracy and against fascism and reaction, we, therefore, welcome as members of ADA (or SDA) only those whose devotion to the principles of political freedom is unqualified.

"I subscribe without reservation to the principles stated above."

The constitution of Americans for Democratic Action provides as follows concerning the aims and objectives of the organization.

"We, liberals and progressives dedicated to democratic principles and the rights of the individual under law, establish and adopt this constitution for Americans for Democratic Action. We pledge ourselves to political action, in accordance with constitutional democratic principles, on local, State and national levels, and to the support of the progressive objectives of labor unions, of cooperatives and farm organizations, and of other social and economic organizations of the people. We are neither a third party movement nor a part of any political party. Our aim is to provide a medium and a program to unite the liberal and progressive forces of America to promote action for the general welfare locally and nationally."

I enclose a copy of the declarations of policy adopted by the organization at its meeting in Washington on March 29-30, 1947. These declarations of policy contain the following statement with regard to discrimination in employment:

"We favor the prompt enactment of a (Federal) Fair Employment Practices Act designed to eliminate discrimination in employment because of race, creed, color, or national origin."

On behalf of the organization I would appreciate the inclusion of this statement in the record of the hearing at or near the testimony of the first witness associated with ADA, Mayor Humphrey of Minneapolis.

Sincerely yours,

DAVID D. LLOYD,
Director, Research and Legislation.

Mr. ROBERT W. GILBERT (cochairman of the Los Angeles chapter of the National Council for a Permanent FEPC). I would just like to make the record show my name and affiliation and then I will submit that document upon my return to California.

Senator DONNELL. How soon will that be submitted, Mr. Gilbert?

Mr. GILBERT. According to the desires of the committee, I will be returning to the coast when these hearings adjourn and immediately upon my return I will write it. I would say within a week's time.

I would like to state my affiliation for the record and not attempt to testify.

I am appearing as cochairman of the Los Angeles Chapter for a Permanent FEPC, in which capacity I have previously requested an

opportunity to testify to the clerk of the general committee and have not received any reply whatsoever up to this time. I am sure that the press of legislative business caused this oversight. I would not have come on from California if I had received a definite telegram stating that the committee did not wish to hear my remarks.

So that it will be clear what my affiliations and connections may be, I am attorney for the Los Angeles Central Labor Council of the American Federation of Labor in that city; a member of the legislative committee of the welfare council of that city which includes all of our community-chest organizations.

I do not want to impose on the committee, but while I am on my feet—

Senator DONNELL. Are you just giving testimony? Your testimony will not be received orally. We have another witness here now. Is there any other affiliation which you wish to submit?

Mr. GILBERT. No; I will submit the statement in the capacities already mentioned.

I appreciate the Senator's courtesies.

Senator DONNELL. We will be happy to have your statement.

(Mr. Gilbert's prepared statement appears hereafter in the proceedings of June 20.)

STATEMENT OF MRS. THEODORE O. WEDEL, CHAIRMAN, COMMITTEE ON CHRISTIAN SOCIAL RELATIONS, UNITED COUNCIL OF CHURCH WOMEN, WASHINGTON, D. C.

Senator DONNELL. Proceed with your statement Mrs. Wedel.

Mrs. WEDEL. Mr. Chairman, I wish to speak in favor of S. 984, the National Act Against Discrimination in Employment, on behalf of the United Council of Church Women.

Senator DONNELL. What address in Washington?

Mrs. WEDEL. 3508 Woodley Road.

Senator DONNELL. And what address in New York?

Mrs. WEDEL. 156 Fifth Avenue.

Senator DONNELL. Will you tell us briefly what that organization is, how large a membership it has, and something of its general principles?

Mrs. WEDEL. It is a federation of the women's societies and women's organizations in Protestant churches. It is a relatively new federation; it was formed in about 1941 and there had been various interdenominational organizations of that kind before, all of which came together in this one large group and because it is a federation, we do not have an exact membership but the total membership of the women's organizations which are affiliated with us is considerably over 10,000,000 women in all parts of the country.

Senator DONNELL. Is your most recent national assembly the one which was held in Grand Rapids, Mich. in 1946?

Mrs. WEDEL. Yes, sir.

Senator DONNELL. How large was the attendance there?

Mrs. WEDEL. About 4,000 were there.

Senator DONNELL. And I observe, if I may anticipate for a moment, the fact that from your written statement here that at that gathering, as well as in one in 1944, your organization has gone on record as

favoring legislation designed to prevent discrimination in employment.

Mrs. WEDEL. Yes, sir.

Senator DONNELL. Do you have a copy of the resolutions?

Mrs. WEDEL. I am sorry I do not have.

Senator DONNELL. Will you furnish a copy of the resolutions of those two meetings?

Mrs. WEDEL. I will be glad to.

Senator DONNELL. Will you proceed, Mrs. Wedel.

Mrs. WEDEL. I will save time by simply reading this.

Senator DONNELL. Very well.

Mrs. WEDEL. The United Council of Church Women wishes to go on record as being in favor of S. 984. I will not repeat information about the organization.

As churchwomen we are concerned with such legislation for three reasons. First, we are convinced that the United States must demonstrate to the world that our democratic form of government offers to all people the best possible opportunity for a full and satisfying way of life. The eyes of the entire world are upon us, and those who would discredit our political and economic system are quick to seize upon any instance of discrimination as evidence that America and the American way does not provide real freedom of opportunity for all men. We feel that the passage of this act will make it clear to the entire world that we really mean what we have said in our Constitution and in the Charter of the United Nations about human rights and freedom.

Secondly, as Christian women we are deeply disturbed by the racial and religious tensions in our country and the flagrant discrimination which we see practiced on all sides.

May I insert something there?

Senator DONNELL. Certainly.

Mrs. WEDEL. We have felt that our churchwomen are disturbed about it but we were not sure that their concern was always based on facts, so about 2 years ago our organization prepared and sent out to our member groups—that is, local and State councils of churchwomen—a very brief and simple questionnaire on segregation practices in their own communities and just suggested that it would be an interesting educational device. Churchwomen from about 250 communities made this very simple study. It is not scientific. It was just a very simple one, and we discovered then that churchwomen were startled to discover the discrimination which was practiced in such things as employed in their own communities. At our assembly in Grand Rapids the feeling was much stronger for such legislation because they had discovered for themselves in their own communities that discrimination was practiced, and many of them had never been aware of it before, had never thought about it.

So we felt our action now is based on real knowledge on the part of the women in their communities.

Senator DONNELL. Your organization has branches in southern United States, south of the Mason and Dixon's line?

Mrs. WEDEL. Yes, sir; and we have a good many officers and committee members and committee chairmen who come from the South, and we are also an interracial group. We have Negro as well as white women.

We hope that the time will come when there will be no racial or religious discrimination in any area of life. But a person's right to a job for which he is qualified is basic, and seems to us a very sound place to start in the effort to abolish discrimination. We know that many people say that you cannot legislate prejudice out of existence. But legislation can remove some of the obvious injustice arising from prejudice.

Thirdly, we want the highest possible standard of living for all the people of this country. As long as there are large numbers of disadvantaged people, prevented by discrimination from securing jobs for which they are trained and so prevented from making their maximum contribution to the Nation, the welfare of all the people is hindered. Only as every person is enabled to work to the best of his ability can we reach the maximum of efficiency and production and improve the economic condition of all the people. We feel that this act will further this end.

We have studied S. 984 carefully. It seems to us to offer ample protection to all parties, and yet to give enough enforcement powers to the Commission to make the act workable. For the sake of the many religious, racial, and national groups against whom discrimination is practiced in various sections of our country, we urge its passage by this Congress. But we urge it even more strongly because we are convinced that the enactment of such a law will benefit all the people of our Nation and will demonstrate clearly to the world that our much-heralded American principles of liberty and equality really operate for all people.

Senator DONNELL. Do you have anything further to submit, Mrs. Wedel.

Mrs. WEDEL. No, sir. That concludes my statement.

Senator DONNELL. We thank you very much for your presentation. It has been called to my attention that Homer A. Jack is present.

Dr. Jack, you ask for 5 minutes. I am not able to grant that time. We have had numerous applications for permission to appear, and it would not be fair to people who have been denied the right to extend that privilege to persons who just drop in upon the committee without having been granted the permission.

I do not mean that the committee intends to be arbitrary in the matter, but the number of people who desire to appear could not be accommodated within the period of time that we have in which to hear them.

We would be very glad indeed to have any written statement that you desire to submit, and it will be incorporated in the record, and I assume it will be within reasonable bounds of space and it will be incorporated and printed in full in the record of our committee.

We thank you very much for your courtesy and for coming.

The committee will stand in recess until tomorrow morning at 9:30 o'clock to convene again in this room.

(Whereupon, at 1:05 p. m., the committee adjourned, subject to reconvening at 9:30 a. m., June 20, 1947.)

ANTIDISCRIMINATION IN EMPLOYMENT

FRIDAY, JUNE 20, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:30 a. m. in the committee room, Capitol Building, Senator Allen J. Ellender presiding.

Present: Senators Smith, Donnell, Ives, and Ellender (presiding).

Senator ELLENDER. The subcommittee will come to order. We will resume the hearings on S. 984.

The first witness this morning will be Mr. William Green, president, American Federation of Labor.

You may proceed, Mr. Green.

STATEMENT OF WILLIAM GREEN, PRESIDENT, AMERICAN FEDERATION OF LABOR

Senator DONNELL. Proceed, sir.

Mr. GREEN. I am glad to have this opportunity to testify on behalf of the American Federation of Labor in strong support of S. 984, the Ives-Chavez bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry.

The American Federation of Labor urges prompt consideration and early adoption of this law because it believes that the enactment of the proposed statute into law is essential to make fully effective the principle of equality of opportunity to all, a principle to which this Nation is dedicated. Our support of this legislation is pursuant to the mandate of the sixty-fifth convention of the American Federation of Labor, held in Chicago in October 1946. This action of the convention is not new. The American Federation of Labor was founded on the ideal of affording to men and women, regardless of race, religion, or color, an equal chance to employment at the skills for which they are qualified and to advancement with a fair and equitable compensation for their productive contribution to the community.

Through the years of its growth, the American Federation of Labor has encountered many situations in which discrimination and intolerance were deeply imbedded. The source of discrimination cannot always be easily ascertained or readily stamped out, but our record of many decades of direct experience in dealing with this issue has conclusively demonstrated that the most powerful single force behind

discrimination against persons because of their color or creed is economic discrimination. Wherever in our land the standard of living has been low, wherever men and women have been subjected to economic stagnation, wherever unemployment or underemployment has been widespread and chronic, racial and religious prejudice has spread rapidly like a blight through communities and whole industrial areas. The evidence is conclusive also that in periods of prosperity or in areas of rapid industrial growth, where economic competition for livelihood is less keen, discrimination in employment tends to disappear.

This experience demonstrates that racial and religious discrimination is not rooted in the American soil. Like a green bog, it spread over the depressed areas as a direct result of the low standard of living, infecting with its disease the channels of America's trade, commerce, and welfare. This experience makes it abundantly clear that to assure healthy economic growth of the Nation, to safeguard and sustain the general welfare of the people of America, it is the duty of this Congress to enact this antidiscrimination legislation, for it is only such legislation that will drain the swamp of wage and employment discrimination and thus assure healthy economic growth to every community and every American family. In a real sense, the proposed bill is an economic reclamation project to prevent the loss of the rich terrain which is now submerged and which must be recaptured if America's economic frontier is to advance.

When discrimination exists and jobs are denied because of race, color, or religion, the minority group affected is forced to a relatively lower economic level. There is evidence of the heavy toll of discrimination in the cities and on the farms. City slums, into which a larger proportion of Negro families have been driven by necessity, along with white families, provide first-hand proof of the harm of such discrimination upon the whole community. We all know the high cost of city slums in child mortality, in disease and crime, and in delinquent taxes. But studies of recent years have proved beyond a shadow of a doubt that mortality, disease, and crime are no higher among Negro slum dwellers than among white slum dwellers. It is the economic degradation, forcing these men, women, and children into the slums, that breeds these infectious, festering sore spots upon community life. Labor is committed to the task of slum clearance, in our cities and on blighted farm areas, through the enactment of the Taft-Ellender-Wagner bill, S. 866, now pending before this Senate. But labor believes discrimination in employment dooms untold thousands to joblessness and privation which make it impossible for them to buy enough food or to afford decent homes, which leaves them no choice but to become underprivileged slum dwellers.

Discrimination in hiring workers who belong to minority groups results in disparity in income. But, in addition to job discrimination on the basis of race, color, or religion, there has been such discrimination against Jews, against Mexican-Americans, against Catholics, and, most extensive of all, against Negroes.

An analysis made by the American Federation of Labor research staff of the official surveys recently conducted by the Bureau of the United States Census and the Bureau of Labor Statistics, of the average weekly incomes of Negro and white veterans in 27 communities in the South, shows dramatically the disparity in incomes on the basis of

color. The study reveals that the average weekly income of white veterans is between 30 percent and 78 percent above that of Negro veterans. Right here in Washington, for instance, there are 84,000 white veterans and 30,000 Negro veterans. The average income of white veterans is shown to be \$53 per week, while the Negro veteran's income is \$32 per week. This means that the white veteran's income is 66 percent above that of the Negro veterans.

This disparity is due to three causes: (1) Many Negroes have been denied employment opportunities in higher grade jobs they are qualified to perform; (2) many Negroes have been barred from both training and job opportunities where they could acquire the skill and experience necessary to qualify them for better paid work; and (3) the rates of pay of Negroes doing the same work have often been substantially lower than that of the white workers.

Quite frequently Negro workers are paid less, not because they do less or are doing a lower-paid job, but solely because they are Negro. There is abundant evidence of this in the wage records of the War Labor Board. To cite but two typical examples, in the case of the Pan-American Refining Corp., Negro workers on the labor gang were paid at the rate of 75 cents an hour, but employed as carpenters' helpers, a job for which employees received the rate of \$1.07 an hour (National War Labor Board Case No. 2778-CS-D, July 30, 1943).

Senator DONNELL. Was that in the same locality?

Mr. GREEN. Yes; that is in that case, in the Pan-American Refining Corp.

Senator DONNELL. I say, but was that in the same State, the same place where the whites and colored worked?

Mr. GREEN. Same place.

Senator DONNELL. Why should the War Labor Board make such a difference?

Mr. GREEN. I cannot understand that, of course. They submitted the records, the facts as they found them. It was in that case, that hearing of discrimination, the payment of rates.

In the Memphis plant of the Buckeye Cotton Oil Co., the rates for unskilled workers were 45.1 cents for Negro and 54.2 cents for white workers. The semiskilled workers' rates were 48.2 cents for Negroes and 69.2 cents for white workers. That is obtained from the records.

An extensive study made by the Bureau of Labor Statistics, in 1942, includes reports covering 7,245 establishments on hourly rates paid to male common laborers. Here there was no question of differentiation of skill—only the rates of unskilled manual workers were reported. It is significant that the study showed a wide differential between the rates of Negro and white workers. The average in the United States for white workers was 65.3 cents an hour and for Negro workers 47.4 cents an hour. The prevalence of these differentials based purely on race has been shown in a number of studies of the wage structure of individual industries. According to the Bureau of Labor Statistics, the average hourly earnings in the steel industry, in 1938, showed white workers averaging 85.7 cents an hour as compared with 68.7 cents an hour for Negroes. Similar factual evidence is available for tobacco, fertilizer, meat packing, and a number of other industries showing the conditions prevailing before and during the war.

Existence of depressed wage standards based on race are a threat to the wage standards of all workers. Wherever a fair standard of compensation has been established the presence of a reservoir of workers whose pay is subject to a traditional differential is a constant threat to the maintenance of that standard. Moreover, because the minority workers are forced to accept a lower pay standard for the same work in order to sustain their livelihood, friction and resentment are bred on the part of workers whose rates of compensation are thereby put in jeopardy. That is the economic source of racial tension which constantly threatens communities in which discrimination in employment prevails. Whenever unemployment begins to increase such tension is bound to become highly explosive, leading to unrest and even rioting. These are the inevitable consequences of discrimination which the proposed bill is designed to avert.

S. 984 is a bipartisan bill. It incorporates many of the modifications proposed in the congressional consideration of the proposed anti-discrimination legislation in the last session of Congress. We believe the provisions of the present bill to be thoroughly sound, equitable, and workable. While the Commission is vested with the power to compel compliance in any case where discrimination is shown on complaint, and proven on investigation and hearing, the exercise of this power is discretionary, not mandatory. Full provision is made for court review of the Commission's orders. Whenever found necessary by the court, any of the Commission's cases may be returned to the Commission for further hearing.

The bill is designed to prevent discrimination in employment by employers. It also makes it an unlawful employment practice for a labor organization to discriminate against any individual or take any action which would limit his employment opportunities or adversely affect his status as an employee. This provision is properly confined solely to the effect of an act of an employer or of a labor organization which would undermine the employment status of a worker or deny him equal employment opportunity.

The primary responsibility for ending discrimination rests upon the employer. It will remain the employer's primary responsibility under the proposed bill. Only the act of deliberate discrimination against an otherwise qualified worker because of his race, religion, or color is subject to investigation and compliance, and that only on complaint. Surely this proposed amendment is moderate enough when measured against the crime of depriving a suitable worker of his livelihood solely because of his creed or the color of his skin. Surely, the procedure, carefully safeguarded by the due process of law, is temperate enough when dealing with discrimination which is subversive to the true practice of democracy in a free society and treasonable to the principles which America has proclaimed before the whole world.

We believe S. 984 to be fair and reasonable in every respect. While it rejects oppressive intervention, it makes effective enforcement certain. We consider the enactment of this measure a matter of far-reaching national, and indeed, international, importance. America's ideals of freedom and democracy are today pitted against world-wide influences of dictatorial oppression. The Communist dictatorship; which offers no freedom and no opportunity to anyone, attempts to

appeal to oppressed minorities. This the Congress must recognize clearly and realistically.

Unity among the people who make up our great Nation means more to our strength than military weapons. Even with the most powerful of weapons, once divided, our people will be powerless against a subtle subversive attack upon our way of life and our institutions. It is the clear duty of the Congress to assure the great and numerous minorities among us that the whole people of the United States stand indivisible in their purpose to make real equal opportunity for all to enjoy the full fruits of their labor and through their productive contribution to earn equally their full share in the American standard of modern living. Mindful of that duty, this Congress has a historic responsibility to enact S. 984 into law without delay.

That presents the statement, Mr. Chairman.

Senator ELLENDER. Mr. Green—

Mr. GREEN. I beg your pardon, I wanted to submit for the record the resolution adopted by the Sixty-fifth Convention of the American Federation of Labor, 1946, and the record of the proceedings of that convention on the resolution that was adopted.

(The resolution and the report of the proceedings are as follows:)

RESOLUTION OF THE SIXTY-FIFTH CONVENTION OF THE AMERICAN FEDERATION OF LABOR, HELD IN CHICAGO, OCTOBER 1946, ADOPTED UNANIMOUSLY BY THE SIXTY-FIFTH CONVENTION

A PERMANENT FEPC

Whereas the American Federation of Labor in several conventions have gone on record supporting Federal legislation for a permanent Fair Employment Practices Commission to eliminate discrimination in industry and labor organizations based upon color, creed, country, and ancestry: Therefore be it

Resolved, That this Sixty-fifth Convention of the American Federation of Labor in Chicago go on record as reaffirming its position of supporting Federal legislation for the establishment of a permanent Fair Employment Practices Commission because it represents and expresses the basic democratic spirit of the American Federation of Labor.

DISCRIMINATION AGAINST MINORITIES

(From the report of the proceedings of the Sixty-fifth Convention of the American Federation of Labor, October 17, 1946)

REPORT OF THE COMMITTEE ON RESOLUTIONS

Committee Secretary Frey continued the report of the committee as follows: Resolution No. 183, by Delegates Edward J. Volz, Matthew Woll, Henry F. Schmal, International Photo Engravers Union of North America:

"Whereas recent developments indicate the presence in this country of considerable racial tension, religious bigotry, and anti-Semitism, setting Protestant against Catholic, Christian against Jew, white against colored, native Americans against foreign-born citizens; and

"Whereas anti-Semitism is used by Fascist and Nazi-inspired elements to sow dissension and mistrust in their effort to destroy the national unity, democratic institutions, and the labor movement; and

"Whereas racial and religious discord plays into the hands of the enemies of organized labor who are trying to bring about the repeal or emasculating of the liberal social legislation on our statute books and to tear down the American standard of living; and

"Whereas the American Federation of Labor, offering by its very existence living proof of the great good that comes of various groups working together toward one common goal, has always contended that discrimination against

minorities is directly contrary to the principles of democracy, which is the cornerstone of a free labor movement: Therefore be it

"Resolved, That the Sixty-fifth Convention of the American Federation of Labor issue a warning to the American people against the danger of allowing the wave of racism to rise in this country, no matter who practices the discrimination and against what group it is directed; and be it further

"Resolved, That the unions affiliated with the American Federation of Labor be put on guard in their readjustment to postwar conditions, lest they fall victim to the disruptive attempts of the union-wreckers whose interests bigotry serves; and be it further

"Resolved, That this convention demand the immediate abolition of the poll tax and the establishment, by act of Congress, of a permanent Fair Employment Practices Commission, authorized to eliminate discrimination because of race, color, religion, or national origin, in private industry as well as in Government work; and be it further

"Resolved, That the unions affiliated with the American Federation of Labor be urged to wage an unrelenting struggle against the groups responsible for the spreading of the poison of anti-Catholicism, anti-Protestantism, anti-Semitism, anti-Negroism, and other forms of racial prejudice, and that the executive council give all possible support to the international and local unions in the undertaking and carrying out of an educational program calculated to promote tolerance, understanding, and unity among the various groups comprising the family of American organized labor."

Your committee recommends concurrence in the resolution.

The recommendation of the committee was unanimously adopted.

Comparison of average weekly income of white and Negro veterans between July 1946 and January 1947 in cities reporting income by color

City	Number of veterans		Average weekly income		Percent average weekly income of white veterans above that of Negro veterans
	White	Negro	White	Negro	
Birmingham, Ala.	21,000	8,000	\$39	\$30	30
Tampa and Port Tampa, Fla.	6,800	1,600	37	28	32
Ashville, N. C.	4,200	800	40	30	33
New Orleans	30,000	14,000	38	28	36
Baltimore, Md.	70,000	20,000	43	31	39
Rossmore, Va.	6,400	600	42	30	40
Louisville area, Kentucky and Indiana	40,000	5,000	42	29	43
Richmond, Va.	15,600	4,400	48	33	45
Greensboro, N. C.	5,000	1,000	44	30	47
Chattanooga, Tenn.	11,900	2,100	48	31	50
Atlanta, Ga.	30,500	9,600	46	30	53
Fort Worth, Tex.	16,000	2,000	46	30	53
Raleigh, N. C.	3,300	700	43	28	54
Memphis, Tenn.	23,800	7,200	46	29	56
Montgomery, Ala.	5,400	2,600	46	29	59
Baton Rouge, La.	7,500	2,600	40	31	61
Charlotte, N. C.	8,200	1,800	45	28	61
Houston, Tex.	30,000	4,000	40	30	65
Waco, Tex.	5,100	900	42	26	65
Shreveport area, Louisiana	5,500	2,500	48	29	66
Washington, D. C., metropolitan district	84,000	30,000	53	32	66
Beaumont-Port Arthur area, Texas	5,200	1,800	47	28	68
Jacksonville area, Florida	12,500	3,500	46	28	71
Austin, Tex.	6,300	700	43	25	73
Columbia, S. C.	4,000	1,000	44	25	76
Jackson, Miss.	4,500	1,500	45	27	78

Source: Department of Commerce, Bureau of the Census, Department of Labor, Bureau of Labor Statistics, veteran housing surveys made from July 1946 to January 1947 by the Bureau of the Census and the Bureau of Labor Statistics for the National Housing Agency. Compiled by the research and information department, American Federation of Labor.

Senator ELLENDER. Has the American Federation of Labor ever passed resolutions of that character before?

Mr. GREEN. I think they did.

Senator ELLENDER. Is it not a fact that there has been quite a lot of discrimination practiced among the Federation of Labor within the past years?

Mr. GREEN. Not a lot; there was a little.

Senator ELLENDER. Quite a bit?

Mr. GREEN. Yes; and that is being wiped out.

Senator ELLENDER. And you did it through education, the slow process, education?

Mr. GREEN. Well, we have made very rapid progress; I do not think there is scarcely more than one or two organizations, and that is in the highly skilled trades, and it is not so much a matter of race discrimination on their part as it is a desire on their part to protect their members who are highly skilled and—the Federation of Labor, however, itself has taken a strong position in opposition to discrimination of any kind in employment.

Senator ELLENDER. Mr. Green, would you object to the passage of this bill if, as was suggested by Senator Smith, the legal sanctions were taken out and make it on a voluntary basis, conciliation and mediation at the beginning?

Mr. GREEN. I think that would make the bill rather weak and ineffective. I am afraid that it would fail in its purpose and fail to meet the requirements of our economic situation at the present time.

Senator ELLENDER. Well, we have mediation and conciliation in the Labor Department and it has taken care of almost 95 percent of the strikes. All that is without sanction. Why would not the same thing apply as to this?

Mr. GREEN. There is a different situation there. The one deals with purely questions which arise between employer and employee over wages.

Senator ELLENDER. But it is human relations, in both instances.

Mr. GREEN. Not so much human relations as it is over wages, hours, conditions of employment.

In this we are dealing with racial discrimination, which is age-long, has been with us from the beginning, and we are trying now to correct it.

Senator ELLENDER. Well, are you familiar with the administration of the FEPC under the Presidential order of 1941?

Mr. GREEN. Well, I would not say that I was fully familiar with it, but I know something about it.

Senator ELLENDER. Yes. Do you recollect that the Commission attempted in its administration of the FEPC to break down segregation barriers in some States, that had been there for a long time and had been established by customs, by rules and regulations, and by law?

Mr. GREEN. I never understood it was their purpose to do that, but that is not in consideration here.

Senator ELLENDER. I understand that. But the opposition to this bill stems from the fact that in the past the FEPC has been so administered that those in charge have attempted to break down segregation laws in the various States of the South.

Now, I presented several examples during the course of those hearings. You remember, right here in the neighboring State of Maryland, where an employer was forced by the FEPC Commission here to break down a wall between two toilets, one of which was marked for colored, the other for whites.

And of course it caused a strike because that action was contrary to custom. Do you think that the FEPC should be used for such purposes as to contravene between local laws, local customs, local rules and regulations?

Mr. GREEN. Well, Senator, I am not familiar with the cases that you bring to my attention, consequently it would be difficult for me to express an opinion on it. But that is water over the dam. That has gone by.

Senator ELLENDER. Yes, I know.

Mr. GREEN. We are talking about—

Senator ELLENDER. But a situation may come up again.

Mr. GREEN. We are talking about a bill that seems to me to rest fairly and squarely on the basis of justice and upon our national traditions and national policies.

Senator ELLENDER. Well, don't you think that the States of the South ought to be permitted to have segregation laws if they desire it, where they give equal facilities to the colored and the whites?

Mr. GREEN. Well, the South is a part of the United States.

Senator ELLENDER. I am asking you, Do you think the South—and the employers of the South, should not be permitted to engage in racial discrimination in employment?

Mr. GREEN. I do not think. I am only expressing my opinion, because—

Senator ELLENDER. To what extent do you know of your own knowledge that that has been done?

Mr. GREEN. I have not any figures on it. But according to the reports we get, it is not only in the South but in the sections of the East and North, all over our country and what we are trying to do in this bill, as I understand it, is to correct it not only in some sections but universally throughout the land.

Senator ELLENDER. I repeat the question I asked you a while ago, Do you think that some States should be prevented from having segregation laws if they desire them, if they give or afford to both races equal opportunities?

Mr. GREEN. Not on economic grounds. Now, I am not speaking on other grounds.

Senator ELLENDER. How about other grounds?

Mr. GREEN. That is not in the bill and I do not want to go into that. I am talking about economic grounds.

Senator ELLENDER. Very well, that is all, Mr. Chairman.

Senator DONNELL. Mr. Green, have you had occasion to examine into the experience in New York under their existing antidiscrimination bill?

Mr. GREEN. No, I have not clearly or definitely or widely gone into that.

Senator DONNELL. I am wondering whether or not you have any observations to make as to the success, or the contrary, of that law as administered in New York?

Mr. GREEN. It is my general understanding that it has operated in a very fair and reasonably satisfactory way and it has pointed the way, I think, as in this bill; I think it is sound because of the New York experience; I think that experience is reflected in this law.

Senator DONNELL. It is our understanding that this bill was very closely modeled on the New York law.

Mr. GREEN. Yes, that is what I think.

Senator DONNELL. Mr. Green, Senator Smith is not here this morning, but he has inquired as to a suggestion that was made here by Senator Smith some days ago; as I understand that suggestion, it was in brief this: That while this bill should be passed, should be passed in its entirety and adopted by Congress, that there should be added to this bill a provision under which any State by appropriate action of its own State legislature within a given period of enactment of this bill would have the privilege at its option to have canceled as to that State the compulsory features of this law except that feature which provides for punishment for forcible resistance against the commission or its representatives.

Now, that was what Senator Ellender referred to this morning. I wanted to ask you this morning whether you would favor, as you now see it, the enactment of a bill with permission to separate States to exempt themselves respectively from the punitive features as I have described Senator Smith's suggestion to be.

Mr. GREEN. I do not think that would be sound public policy. That would be my idea.

Senator DONNELL. Your best judgment would be that it should be universal?

Mr. GREEN. This is one country and so far as the race problems are concerned, they are national, not local.

Senator DONNELL. I want to make it clear again. Mr. Stewart, if I misquoted the Senator's motion in any respect—have I fairly stated it?

Mr. STEWART. Yes.

Senator DONNELL. I want to make it clear that Senator Smith does not advocate the abolition in any State of the section which provides penalty for forcible resistance to the commission or its representatives.

Now, one other final question.

Senator IVES. Mr. Chairman, may I add one thing? I do not know that Senator Smith is even advocating the proposal you have submitted. It is just a suggestion on his part.

Senator DONNELL. Yes; I think that is a very correct observation. Senator Smith has not placed himself on record as advocating this suggestion that he has presented to the committee but simply has presented it for the consideration of the committee and of various witnesses who have appeared before it and I think Senator Ives' correction there is perfectly right and should be in the record.

Mr. GREEN. I see.

Senator DONNELL. As Mr. Stewart now suggests, it was merely a thought thrown in for consideration. Is that a fair statement, Senator Ives and Mr. Stewart?

Mr. STEWART. Yes.

Senator IVES. It is.

Senator DONNELL. One other question, Mr. Green. Senator Ellender referred to the controversy across in a nearby point in Maryland—I think it was at Point Breeze, Md., as told by the Senator during the testimony of several witnesses.

I am wondering whether you have examined the particular language of section 5A of this proposed bill which says, the earlier part of it:

It shall be an unlawful employment practice for an employer to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to

the terms, conditions, or privileges of employment because of such individual's race, religion, color, national origin, or ancestry."

Have you considered, Mr. Green, whether or not that language is susceptible of authorizing the commission to be created under this bill to take charge of matters such as he referred to over here in Maryland? That is the illustration where strikes resulted from the refusal of the employer to knock out a partition between certain facilities provided for the two races.

Do you think that this clause that I refer to would permit the commission to require not merely similar facilities but identical facilities to be used by both races?

Mr. GREEN. Well, of course, I am not an attorney and I would not assume to pass upon the legal interpretation of that section of the act, but as an ordinary student of bills of this kind and problems of this kind, I do not think it would.

Senator DONNELL. May I ask, Would you favor, as you now see it, authorizing the commission to issue orders of the type that Senator Ellender has mentioned?

Mr. GREEN. No; I would not favor that because I think that this is a national problem; I repeat again it ought to be universally applied.

Senator DONNELL. You would not favor a commission to be created under this bill having the authority to require identical facilities for the two races? I mean in the illustration he used. They were toilet facilities, and if this is susceptible of that construction, would you favor changing the language?

Mr. GREEN. It is my judgment, sir, that a commission created for the purpose of administering this act would exercise sound judgment in the administration of the act. That is a reasonable conclusion, is it not?

Senator DONNELL. It is my judgment, sir, that I trust it is and have no doubt that the commission would endeavor to use the best of reasoning in the administration of this bill.

Senator ELLENDER. May I remind you that that was not your feeling in 1938 with the National Labor Relations Board, was it?

And that commission did the same thing that the Board did against the A. F. of L.

Mr. GREEN. That was a different problem, Senator, but it was based on realities and facts and I submitted the facts and I think the facts convinced you.

Senator ELLENDER. Yes, absolutely, but the point at issue, you say that you think that this commission will exercise good judgment.

Mr. GREEN. Yes; well, ought to.

Senator ELLENDER. Under the language quoted to you by Senator Donnell that "it shall be unlawful employment practice for an employer to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin or ancestry."

Mr. GREEN. Yes.

Senator ELLENDER. Now, do you not think that this language is susceptible to the interpretation that this commission may do the things that I say was done by it, by the FEPC over here in Maryland?

Mr. GREEN. I do not think it would, Senator; that is my own judgment, but you can take now—you speak about the National Labor

Relations Board. Take the Civil Service Commission. The Civil Service has exercised its judgment.

Senator ELLENDER. Some do.

Mr. GREEN. And a number of other commissions and that is the reason I base my statement upon the fact that the commission clothed with such responsibility, dealing with such a problem will exercise good judgment in the administration.

Senator IVES. May I ask a question, Mr. Chairman?

Mr. GREEN. Is it not a fact that in Massachusetts, New Jersey, and New York where there are similar set-ups dealing with this subject, nothing of the kind to which Senator Ellender referred has occurred?

Senator ELLENDER. No, because you have no—

Senator DONNELL. Indicating there is little likelihood of—

Senator ELLENDER. Because you have no segregation laws.

Mr. GREEN. That is a reasonable conclusion, I think, Senator.

Senator DONNELL. Do you mean the conclusion stated by Senator Ives, or were you referring—

Mr. GREEN. I was referring to Senator Ives. I think that is a reasonable conclusion.

Senator DONNELL. You have not, however, Mr. Green, as I understood from your answer a little while ago, made a study of the New York law, if I am correct in that?

Mr. GREEN. Some study, not as much as I ought to make and as I expect to make and will make, but I have made a fair study of it and I feel that it is operating in a valuable and proper way.

Senator DONNELL. Would you mind telling us, Mr. Green, to what extent you have studied the operation of the New York law and what investigation you have made and how you have done it?

Mr. GREEN. In the employment of people, I do not find as a result of the passage of this law in New York, I do not find where there is scarcely any discrimination. Perhaps I can say none, as far as I know, in the employment of men because of race, color, or nationality. It seems that whatever discrimination was practiced has been wiped out pretty clearly now under the operation of the law. And that is what we are dealing with here, purely an economic question.

Senator DONNELL. Are there any further questions, gentlemen, of Mr. Green?

(No response.)

We are very much obliged to you for your courtesy.

Mr. GREEN. I want to say that as I understand it some reference was made to the refusal of California to adopt the FEPC law.

Senator DONNELL. Yes.

Mr. GREEN. And I do not know what the discussion was, but I just received—one of our representatives received a telegram from the secretary of the Los Angeles Labor Council making a report on that, and with your permission I would like to read it for the record.

Senator DONNELL. We would be glad if you could.

Mr. GREEN. The wire is as follows:

Robert W. Gilbert, attorney for the Los Angeles Central Labor Council, reports that during hearings on the FEPC bill, S. 984, testimony is being introduced to the effect that the State of California defeated FEPC legislation and is therefore opposed to national FEPC. The fact of the matter is that the FEPC bill presented to the voters in California was drafted by a Communist-controlled group and contained objectionable features not in keeping with the policies of

the United States. However, Governor Warren, all labor groups, civic groups, and church organizations have wholeheartedly endorsed the principles of FEPC. If the California bill had not contained left-wing ideologies, it undoubtedly would have been accepted. I am instructing Mr. Gilbert to submit this information to the committee. Will appreciate your assistance you may give him in establishing these facts in the record.

W. J. BASSETT,

Secretary, Los Angeles Central Labor Council.

Senator DONNELL. Do you know, Mr. Green, of your own knowledge what those left-wing ideologies are that the sender of this telegram refers to?

Mr. GREEN. I have not got them, but I will get them and file them.

Senator DONNELL. We will be glad if you will file them at your early convenience with respect to this California situation.

We have a letter which will be offered for the record a little later on from some gentleman in California—I do not recall his name at the moment—in which he refers to the outcome of a referendum in California, and rather significant in his judgment appeared that referendum, and we would be glad to have the other side of it, too.

Mr. GREEN. I will be pleased to submit it to the record.

Senator DONNELL. Any further questions?

Senator IVES. I wanted to comment on the California proposition. I think it was quite different from the proposition we are dealing with here. Of course, it never appeared before the voters in Massachusetts, New York, or New Jersey, but the bills in those three States, I think, were quite different from the proposition submitted in California.

Mr. GREEN. Yes.

Senator IVES. That has been my understanding.

I would like to see a copy of that California proposition and see what it is. It makes all the difference in the world as to how the thing sizes up whether one is for it or not.

Mr. GREEN. Yes; indeed.

Senator IVES. We had bills of this type submitted in New York to which I was completely opposed.

Mr. GREEN. It makes a lot of difference, Senator.

Senator DONNELL. Did you not serve in the legislature in Ohio and so testify before one of the committees?

Mr. GREEN. I belong to your fraternity; I served two terms in the Ohio Senate, and when there I served as leader in the Ohio Senate.

Senator DONNELL. We thank you very much, Mr. Green, for your kindness in coming.

(Subsequently Mr. Green submitted the following letter introductory to a supplementary statement. The letter and statement follow:)

AMERICAN FEDERATION OF LABOR,
Washington 1, D. C., July 7, 1947.

Mr. PHILIP R. RODGERS,

*Clerk, Senate Committee on Education and Public Welfare,
Senate Office Building, Washington, D. C.*

DEAR MR. RODGERS: In accordance with the understanding made with the chairman, I am submitting a supplementary statement to be inserted at the conclusion of my testimony in the record of the committee hearings on the antidiscrimination bill.

With many thanks for your kind cooperation, I am

Sincerely yours,

W. GREEN,

President, American Federation of Labor.

SUPPLEMENTARY STATEMENT OF WILLIAM GREEN, PRESIDENT OF THE AMERICAN FEDERATION OF LABOR, TO THE SENATE COMMITTEE ON EDUCATION AND PUBLIC WELFARE ON S. 984

In the course of my testimony before the committee, Senator Ellender referred to the Point Breeze case, implying that the wartime FEPC had ordered the employer to remove partitions between toilets for white and Negro employees, in violation of local law and custom. Since the record indicates that Senator Ellender based his opposition to S. 984 largely upon this case, a summary statement of the facts in the matter is submitted for the information of the committee:

1. The wartime Fair Employment Practice Committee did not in any way precipitate the dispute between the employer and the employees in the Point Breeze plant of the Western Electric Co., a plant engaged in war production and located within the city limits of Baltimore. In fact, the FEPC had nothing whatsoever to do with the entire dispute for a period of 18 months from its inception.

2. The dispute between a group of employees and the management with regard to the provision of segregated toilet facilities for employees arose in February 1942, and in 1943 came before the National War Labor Board. On August 18, 1943, when the Fair Employment Practice Committee was on the west coast for the purpose of hearings, the Committee received a communication from the War Labor Board requesting informal advice which the Board sought in the course of the informal phase of its investigation prior to the hearing. Responding to this invitation of the War Labor Board, the FEPC sent a communication to the Board on November 16, 1943, 20 months after the employer, the Western Electric Co., had voluntarily adopted a policy of maintaining unsegregated toilets.

3. The unsegregated toilet facilities in the Point Breeze plant were not contrary to local law and custom in force for a considerable period prior to referral of the case to the War Labor Board in 1943. On February 13, 1942, the Baltimore City Council amended the city plumbing code to make it no longer necessary to provide separate facilities for white and Negro employees. In line with this, and also because separate facilities were impractical because of shifting of personnel from department to department, the employer installed common facilities. Segregated facilities which had been in use prior to February 13, 1942, were abandoned. The company's position, as stated by Mr. C. C. Chew, superintendent of industrial relations of the Western Electric Co., in panel hearings of the War Labor Board on November 11, 1943, was that under the operating conditions in the plant, consisting of a number of separate buildings and departments, segregated toilets would interfere with nondiscriminatory employment practices. Frequently it was necessary to transfer employees and equipment between departments and buildings and, to make certain it did not discriminate in doing this, the company felt it was necessary to have facilities which would be available for use of all its employees, regardless of race.

4. The wartime FEPC, under the terms of the Executive Order 9346, and under the rules maintained by the committee itself, could not take formal action except after (1) its own investigation; (2) attempt at voluntary settlement through conferences with parties; and (3) if such attempted voluntary settlement failed, after a notice and full opportunity to be heard afforded to the parties. The nature of such formal action was confined to a finding of fact and a formal directive to effect compliance. The statement made by the committee to the War Labor Board in the Point Breeze case was in the nature of an expression of its views with regard to the applicability of the Executive order and was, as such, not subject to any form of final enforcement.

5. In its statement of November 16, 1943, made to Sylvester Garrett, regional chairman of the War Labor Board in Philadelphia, the FEPC took the position that the unsegregated facilities already installed by the employer and presumably in use for more than a year should be continued. In its communication to the Board, the FEPC said:

"The committee takes the position that in the circumstances of this case, where there are frequent and temporary transfers of workers from department to department; such installing of segregated duplicate facilities cannot but lead to discriminatory employment practices and would be in violation of Executive Order 9346."

6. Equally important is the fact that the whole toilet issue in the Point Breeze plant was a trumped-up, synthetic "grievance," developed by a so-called independent union in the plant which was in competition with a recognized bona

side labor union for the right to represent the employees in collective bargaining with the employer. This so-called independent union was believed at the time to be a company-dominated organization. At any rate, this grievance of toilets was used to bring about a strike in the midst of the war production effort, tying up production of vitally needed field telephones for the Army and Navy.

It is obvious that, under the mandatory provisions in S. 984 for information, education, conciliation, and mediation, a repetition of the Point Breeze case is virtually impossible. Reasonable men could reach a reasonable solution on any question of plant facilities, in full compliance with the terms of the act and without discrimination in employment.

(Subsequently Mr. Robert W. Gilbert, Los Angeles Chapter, National Council for a Permanent FEPC, addressed a letter and submitted a statement as follows:)

LOS ANGELES CHAPTER, NATIONAL COUNCIL FOR A PERMANENT FEPC,

Los Angeles 12, Calif., June 30, 1947.

Mr. PHILIP R. ROGERS,

Clerk of the Committee on Labor and Public Welfare,

United States Senate, the Capitol, Washington, D. C.

DEAR SIR: In accordance with our understanding with Senator Forrest C. Donnell, chairman of the subcommittee dealing with Senate bill 984, reached at the hearings on June 10, 1947, and in compliance with the remarks of President William Green, of the American Federation of Labor, at the hearings on June 20, 1947, I respectfully submit the enclosed copies of my statement relative to the California experience with proposed fair employment practice legislation, for insertion in the transcript of those hearings and inclusion as part of the official record.

Please acknowledge receipt of the same at your earliest opportunity.

Very truly yours,

ROBERT W. GILBERT.

STATEMENT OF ROBERT W. GILBERT, COCHAIRMAN, EXECUTIVE COMMITTEE, LOS ANGELES CHAPTER, NATIONAL COUNCIL FOR A PERMANENT FEPC; ATTORNEY, LOS ANGELES CENTRAL LABOR COUNCIL OF THE AMERICAN FEDERATION OF LABOR, LOS ANGELES, CALIF., JUNE 26, 1947

INTRODUCTION

Because of the tremendous interest of California citizens in Senate bill 984, the proposed National Act Against Discrimination in Employment, the undersigned, as co-chairman of the executive committee of the Los Angeles Chapter of the National Council for a Permanent FEPC, and with the full concurrence of that organization, telegraphed Philip R. Rogers, clerk of the Senate Committee on Labor and Public Welfare, on June 3, 1947, as follows:

"Re Donnell subcommittee hearings on Senate bill 984, respectfully request opportunity to testify for bill on or about June 18. Letter confirming this request follows."

Simultaneously, a letter was prepared on the official letterhead of the local branch of the National Council for a Permanent FEPC addressed to the clerk of the committee and reading as follows:

"We have been informed that the subcommittee under the chairmanship of Senator Forrest C. Donnell will hold hearings for 6 days on Senate bill 984, the proposed National Act Against Discrimination in Employment, on June 11-18 and June 18-20.

"This letter will confirm our telegraphic request of this date for an opportunity to appear in favor of this measure at the hearings in Washington on or about June 18 and to present the views of the cross-section group of California citizens belonging to the Los Angeles chapter of this organization.

"I would appreciate being advised as to the wishes of the subcommittee with respect to our testimony at your earliest opportunity so that transportation and hotel arrangements may be made in time."

Failing to receive any response from the committee clerk, we nevertheless proceeded to Washington to attend the hearings on the bill. Upon obtaining a list of the scheduled witnesses for the final 8 days of the hearings, we found that all of the testimony was submitted by persons from eastern and midwestern

cities. The communities furthest west represented were Detroit, Mich., and Minneapolis, Minn.

On the morning of June 19, during the testimony of Mrs. Mildred H. Mahoney, chairman of the Massachusetts Fair Employment Practice Commission, and Mr. Hubert H. Humphrey, mayor of the city of Minneapolis, references were made by Senators Ellender and Smith to the rejection of FEPC legislation by the voters of California last fall. Senator Smith raised this point about the California experience particularly in connection with his suggestion that the original bill cosponsored by him be amended to permit individual State legislatures to exempt their jurisdictions from the provisions of the measure calling for Federal court enforcement of the orders of the proposed National Commission against Discrimination in Employment.

That afternoon, following the testimony of Mr. Clarence Barbour, vice chairman of Students for Democratic Action on the University of North Carolina campus, a request was addressed to the chairman for a brief opportunity for the undersigned to testify with respect to the California attitude toward this vital legislation, since two distinguished members of the subcommittee had referred to the situation in my State. This request was denied by the chairman, with a statement that he would permit a brief to be filed on this subject to be prepared by the undersigned and inserted in the record at that particular point.

After receiving a report from the undersigned to that effect, Mr. W. J. Bassett, secretary-treasurer of the Los Angeles Central Labor Council, AFL, wired President William Green, of the American Federation of Labor, as follows:

JUNE 19, 1947.

MR. WILLIAM GREEN,

President, American Federation of Labor,
Washington, D. C.:

Robert W. Gilbert, attorney for the Los Angeles Central Labor Council, reports that during hearings on the FEPC bill, S. 984, testimony is being introduced to the effect that the State of California defeated FEPC legislation and is therefore opposed to national FEPC. The fact of the matter is that the FEPC bill presented to the voters in California was drafted by a Communist-controlled group and contained objectionable features not in keeping with the policies of the United States. However, Governor Warren, all labor groups, civic groups, and church organizations have wholeheartedly endorsed the principles of FEPC. If the California bill had not contained left-wing ideologies it undoubtedly would have been accepted. I am instructing Mr. Gilbert to submit this information to the committee. Will appreciate any assistance you may give him in establishing these facts in the records.

W. J. BASSETT,

Secretary, Los Angeles Central Labor Council.

At the hearing on June 20, President Green advised the subcommittee of this communication, and read a copy of it into the record. At his request, the chairman reaffirmed his willingness to receive from President Green a brief to be prepared by the undersigned, covering the principal points raised by Secretary Bassett in his telegram, namely:

(1) "Proposition 11," the FEPC bill, presented to the voters in California, was sponsored by a Communist-controlled group.

(2) "Proposition 11" contained objectionable features not present in Senate bill 984.

(3) Governor Warren, all labor groups, civic groups, and church organizations have wholeheartedly endorsed the principles of fair employment practice legislation.

(4) If the California voters had not believed that "Proposition 11" contained left-wing ideologies, it would have been carried by the overwhelming sentiment in favor of antidiscrimination legislation.

In accordance therewith, the following statement is respectfully submitted.

ROBERT W. GILBERT.

I. PROPOSITION 11, THE FEPC BILL PRESENTED TO THE VOTERS IN CALIFORNIA, WAS SPONSORED BY A COMMUNIST-CONTROLLED GROUP

As will be substantiated by further discussion below, the citizens and voters of California are wholeheartedly in favor of legislation against discrimination in employment. Gov. Earl A. Warren, our noted Republican chief executive, all labor groups, civic groups, and church organizations have gone on record in favor of permanent fair employment practice legislation.

While various responsible organizations were laying the groundwork for a community effort to secure enactment of State legislation on fair employment practices, and following the excellent example of the sponsors of the Ives-Quinn law in New York State by mobilizing the sympathy and support of a cross-section group of outstanding citizens, a narrow and unrepresentative "front" organization, the so-called "Committee for the Promotion of the Fair Employment Practices Act" was set up with obvious Communist backing.

Because of the widespread public acceptance of FEPC legislation in California, even this narrow and sectarian left-wing set-up was able to obtain more than 275,000 signatures on initiative petitions for the measure. It was not until proposition 11 had qualified for the ballot that responsible groups found themselves in the dilemma of being forced to choose between voting against legislation which they endorsed in principle, or voting for a measure which had been circulated mainly by Communist sympathizers.

Thus, the Report of the Joint Fact-Finding Committee on Un-American Activities, submitted to the Fifty-seventh California legislature on March 24, 1947, contains a detailed account of character of the sponsorship of proposition 11 (pp. 40-48). This portion of that legislative report, known as the Tenney report, represents the beliefs of a substantial majority of the people of California regarding the FEPC initiative, quite apart from their differing views on other sections of the voluminous document. On page 40, the report states:

"The Communist-inspired Fair Employment Practices Act . . . was to be launched as a rallying point for racial minorities and the Communist Party hoped to mobilize these groups at the polls in the 1946 elections and thus carry their own candidates with an overwhelming vote for the initiative measure.

"Committee investigators made an exhaustive study of the tracts, pamphlets, dodgers, handbills, and miscellaneous literature issued by the Southern California Committee for the Promotion of the Fair Employment Practices Act . . ., generally referred to in the 1946 election as proposition No. 11. The committee learned that of the 63 sponsors and officers of the committee for proposition No. 11 more than one-half had been prominent in movements sponsored by the Communists and left-wingers in California."

The joint legislative committee might have added that when the Communist-backed candidates were defeated in the primary elections, the left-wing forces lost interest in proposition 11, and for the most part withdrew from active defense of the measure against the heavily financed opposition of the extreme right-wingers and reactionaries. The cross section of responsible community and labor organizations in favor of the principle of fair employment practice legislation were caught in the middle between the extremists on both sides of the California political spectrum. Almost entirely unaided, we defended the principle of anti-discrimination legislation from attack with full knowledge of the inevitability of the defeat of proposition 11 due to the nature of its sponsorship.

II. PROPOSITION 11 CONTAINED OBJECTIONABLE FEATURES NOT PRESENT IN SENATE BILL 984

Among the chief arguments advanced by the opponents of the California FEPC proposition in the campaign leading up to the November 5, 1946, election was the claim that the measure "differs from the New York law (Ives-Quinn bill) in several important respects." (For example, see article in Los Angeles Daily News of October 25, 1946.)

A pre-election statement issued by Randolph Van Nostrand, director of public relations of the Los Angeles Merchants and Manufacturers Association, and Alice Tanner Gardner, chairman of the women's division of the Los Angeles Chamber of Commerce, declared that "Proposition 11 is not the same as the New York law. It differs in five specific ways. . . ."

The detailed objections to the provisions of proposition 11 ran somewhat as follows:

(1) As a constitutional amendment, adopted by vote of the people, the proposed California law could not be modified or amended by the legislature in the event defects were discovered subsequently.

(Critics pointed out that the New York Commission Against Discrimination was created by act of the legislature of March 12, 1945, which statute is subject to amendment without requiring a vote of the people. Needless to state, Senate bill 984 is not subject to this criticism.)

(2) The proposition called for appointment of a fair employment practice commission by the Governor without any requirement of senate confirmation.

(Critics also pointed out that the New York commission was appointed by the Governor "by and with the advice and consent of the senate." Senate bill 984 similarly provides that the members of the proposed "National Commission Against Discrimination in Employment" shall be "appointed by the President by and with the advice and consent of the Senate.")

(3) The measure ignored the California Administrative Procedure Act of 1945.

(The board of trustees of the Los Angeles Bar Association, "without expressing any opinion as to whether it is desirable or practical that legislation be enacted embodying the major objective of the proposed Fair Employment Practices Act (proposition 11 at the coming general election," attacked the measure because the procedure which it provided for did not conform to the Administrative Procedure Act adopted by the legislature in 1945 after intensive study by the Judicial Council, many State agencies, and the bar. Senate bill 984 provides for complete adherence to the Administrative Procedure Act of 1945, Public Law 404 of the Seventy-ninth Congress.)

(4) The proposition deprived the State courts of power to stay any order of the commission or grant other temporary relief, pending review.

(Proposition 11 declared in its section 10 that, "The filing of a petition for review shall not operate as a stay of the commission's order. No court of this State shall have jurisdiction to issue any restraining order, or preliminary or permanent injunction, or any other restraint preventing the commission from performing any of its functions. Nor shall any court have jurisdiction to make any order affecting the commission or its orders, except as specifically provided in this act."

(Both the New York law and Senate bill 984 expressly confer upon the reviewing court "power to grant such temporary relief or restraining order as it deems just and proper." Section 8 (1) of Senate bill 984 also provides that, by order of court, the commencement of review proceedings may operate as a stay of the Commission's order.)

III. GOVERNOR WARREN, ALL LABOR GROUPS, CIVIC GROUPS, AND CHURCH ORGANIZATIONS HAVE WHOLESHEARTEDLY ENDORSED THE PRINCIPLES OF FAIR EMPLOYMENT PRACTICE LEGISLATION

At the opening of the Fifty-seventh California Legislature in 1947, our distinguished Republican Governor, Earl A. Warren, transmitted a message to the members of the senate and assembly containing the following statement relative to fair employment practice legislation:

"Every war has its aftermath of hatred, discrimination, and persecution. World War II is no exception. Even now, as people of good will strive to prepare a world order based upon justice and fair dealing, we find race hatred disturbing world peace. Here in free America families are already at work to divide us by preaching that doctrine. I am sure that cosmopolitan California does not condone such practices, and I also feel certain that in rejecting proposition No. 11 at the recent election our people intended only to withhold their approval from a measure they consider unworkable. I believe they would like to eliminate discrimination so far as is humanly possible."

Significantly enough, in view of the left-wing sponsorship of the defeated proposition, Senator Jack B. Tenney, chairman of the joint fact-finding committee on un-American activities, introduced senate bill 80 into the fifty-seventh legislature at the instance of the Governor. This bill called for the establishment of a commission on political and economic equality to investigate the extent of job discrimination and similar conditions and recommend remedial legislation to the legislature and Governor. Like a similar measure introduced on behalf of the Governor 2 years previously, this bill (to use Earl Warren's own words) "failed of passage because there were on the one hand those who were unwilling to take any action and on the other hand those who insisted on doing more."

At the forty-fourth annual convention of the California State Federation of Labor held at San Francisco, four resolutions were submitted favoring permanent antidiscrimination legislation. At the afternoon session on June 21, 1946, the State federation convention reaffirmed its consistent position "as being opposed to any discrimination against anyone exercising the right to make a living to the fullest degree of his capabilities, regardless of race or national origin" (convention proceedings, p. 811).

With respect to the measure which later came to be designated as proposition 11, the resolutions committee of the California State Federation of Labor

observed that "It had some objectionable features" but endorsed the principle of the measure with some reservations "In order not to put the convention on record as opposed to antidiscrimination legislation" (convention proceedings, p. 312).

The Los Angeles Central Labor Council, representing 500,000 A. F. of L. members in that county, has specifically endorsed Senate bill 984, and other labor bodies throughout California have done likewise.

The Welfare Council of Metropolitan Los Angeles, a department of the Community Welfare Federation, representing some 35 cities and towns, which has conducted welfare planning and research and the annual Community Chest appeal for some 21 years, reaffirmed its position in favor of a Fair Employment Practices Act in a social legislation bulletin issued in October 1946. The council even endorsed proposition 11 in lieu of any other legislation.

The principle of fair employment practice legislation has been endorsed by outstanding religious leaders of our community, Archbishop John J. Cantwell, of the Roman Catholic Church; Bishop W. Bertrand Stevens, of the Episcopal Church; Rabbi Edgar F. Maguhn; and Dr. E. C. Farnham, of the Protestant Church Federation, with the statement: "We must put upon our statute books the legal guaranty that * * * the American concept of human equality, in which men look for guidance in the principles and practices of liberty, shall become at last more than a hope and a desired end * * *."

The Church Federation of Los Angeles endorsed "The Fair Employment Practices Commission in principle as a progressive step toward interracial understanding."

There is no need to burden this statement with a recapitulation of the dozens of endorsements of Senate bill 984 which have already been forwarded to the committee by leading citizens, labor organizations, YMCA and YWCA branches, religious bodies, civic organizations, and the like from Los Angeles County and other places in California. It is sufficient to state that the Los Angeles Chapter of the National Council for a Permanent FEPC has copies of numerous endorsements of the bill in its files, and would have been pleased to list them for the record at the hearing in Washington if its representative had been afforded an opportunity to testify orally.

IV. IF THE CALIFORNIA VOTERS HAD NOT BELIEVED THAT PROPOSITION 11 CONTAINED LEFT-WING IDEOLOGIES IT WOULD HAVE BEEN CARRIED BY THE OVERWHELMING SENTIMENT IN FAVOR OF ANTIDISCRIMINATION LEGISLATION

The communistic connection of many members of the sponsoring committee for proposition 11 made the measure a ready target for attack, particularly by extreme right-wing groups.

A so-called Committee for Tolerance was set up to bring about a "No" vote on the measure, posing as a "cross section of Southern California citizenry." The board of directors of the California Retailers Association announced that it was "opposed to discrimination in any form" but condemned proposition 11 because "it has gone far beyond the very desirable objective." Three highly conservative Los Angeles churchmen branded the proposed initiative as "un-Christian and un-American"—Rev. James W. Filfield, Jr., Rev. Paul C. Johnson, and Dr. Willis Martin. The Committee for Tolerance echoed with the charge that it was "a Communist-inspired scheme." Another reactionary front, the so-called Women of the Pacific denounced the proposal as "advocated by Communists, left-wingers, and racial pressure groups seeking special privileges." A summary of the arguments pro and con distributed by the Pacific Southwest Area Council of the YMCA raised the question, "Is not the proposition Communist-inspired and an aid to subversive bickers from within?"

It is easy to understand why proposition 11 was defeated last November 5. It is important to understand that the responsible and loyal citizens who favored antidiscrimination legislation before the defeat of proposition 11 still favor the general principle of fair employment practice laws, and specifically Senate bill 984 as originally drawn.

Moreover, the same voters of southern California who voted against proposition 11 elected Congressmen who were on record favoring a national act against discrimination in employment.

Both Senator Sheridan Downey, a cosponsor of Senate bill 984, and Senator William F. Knowland voted in favor of cloture to end debate and permit a vote on FEPC legislation in the Seventy-ninth Congress. The Junior Senator from California was reelected at the 1946 balloting.

A poll of opposing candidates for Congress from southern California conducted by the Church Federation of Los Angeles contained the following answers to the question, "Should the wartime Fair Employment Practices Commission be made permanent?" by successful office seekers:

Twelfth District--Richard M. Nixon (Republican): "Yes; with necessary modifications in administration and policy."

Thirteenth District--Norris Paulson (Republican): "Yes."

Fourteenth District--Helen Gallagher Douglas (Democrat): "Yes."

Sixteenth District--Donald L. Jackson (Republican): "Undecided."

Eighteenth District--Willis W. Bradley (Republican): "I have in fair practices. Would be glad to have a commission authorized to enforce such practices * * *."

Twentieth District--Carl Hushaw (Republican): "Yes."

Of the three unopposed Members of the House, Cecil R. King (Republican), of the Seventeenth District, and Chet Holtfield (Democrat), of the Nineteenth District, were clearly on record for legislation such as Senate bill 1984.

These Members of Congress truly represent the pronounced views of their constituents in favor of this vital legislation. In California, today, 11 percent of the total labor force are unemployed, but 30 percent of the nonwhites are without work. A check of the employment offices in the city of Los Angeles, for example, shows that Negroes, who constitute 8.0 percent of the population, comprise about 45 percent of the job applicants. Discrimination is prevalent, running from 20 percent on common-labor jobs to 100 percent in many skilled trades.

California cities cannot afford to maintain a permanent class of unemployed citizens because of discriminatory job practices. The price of maintaining such a group is too high in terms of public-welfare costs, police-protection costs, fire-protection costs, health risks, and injury to the public morale.

We urge the passage of Senate bill 1984, therefore, in its original form, and without weakening modifications.

Senator DONNELL. Our next witness is Mr. Salert.

STATEMENT OF IRVING SALERT, FIELD DIRECTOR, JEWISH LABOR COMMITTEE, NEW YORK, N. Y.

MR. SALERT. I am Irving Salert, field director, Jewish Labor Committee. I am testifying for Mr. Adolph Held, national chairman.

Senator DONNELL. We have both of you listed, but you will present it.

You are field director?

MR. SALERT. Yes, sir.

Senator DONNELL. Where is your home?

MR. SALERT. My home is in New York.

Senator DONNELL. Do you mind telling us where you were born and where you have lived during your lifetime?

MR. SALERT. I was born in New York City. I have lived in Maryland, Virginia, New Jersey, and Brooklyn. I have traveled over the 48 States of our Union and the Provinces of Canada.

Senator DONNELL. You have never lived in the southern portion of our country, however, except Virginia and Maryland; is that right?

MR. SALERT. That is right, sir.

Senator DONNELL. Now, what is the Jewish Labor Committee?

MR. SALERT. May I read the statement, sir?

Senator DONNELL. Yes; but could you not just tell us?

MR. SALERT. The Jewish Labor Committee, in whose behalf I am appearing here today, is a national organization consisting of over one-half million Jewish working men and women, and has affiliated with it every AFL and CIO union with a substantial Jewish membership.

Senator DONNELL. Now, Mr. Salert, I am not clear as to just what a committee of over half a million people is; it may be just the name, the Jewish Labor Committee, that leads to that confusion in my mind, but I would like to ask you what is that organization. Is it a corporation; is it a voluntary organization?

Mr. SALERT. It is a voluntary organization of national unions, the International Ladies Garment Workers Union; the United Retail and Wholesale Employees, CIO; United Hatters and Millinery Workers, AFL; Textile Workers, CIO; the Amalgamated Clothing Workers of America, CIO; Workmen's Lodges, a fraternal order in America and Canada with over 70,000 members; the United Hebrew Trades, AFL; and other local unions that are predominantly Jewish in character.

On our board, Mr. Adolph Held is chairman; Mr. David Dubinsky is general secretary; Mr. Joseph Baskin is general secretary of the Workmen's Lodges. There are also 35 vice chairmen who are top leaders in AFL and CIO unions in the United States.

Among them are Mr. Louis Hollender, Amalgamated Clothing Workers of America; Abe Miller; Mr. Jacobs, president of the hat and millinery workers; and other such leaders.

Senator DONNELL. Would you tell us something, Mr. Salert, of Mr. Held, who was also to have been here this morning?

Mr. SALERT. Mr. Held for 20 years was with the Amalgamated Bank of New York. At present he is director of health and welfare for the International Ladies Garment Workers Union of the AFL, which takes care of approximately 400,000 working men and women in the United States and Canada.

Senator DONNELL. The bank to which you refer is one organized by the unions?

Mr. SALERT. The bank is the institution owned and controlled by the Amalgamated Clothing Workers of America.

Senator DONNELL. I see.

Do you speak of this Jewish Labor Committee as consisting of over one-half million men and women; do you mean that each one of those belongs to the Jewish Labor Committee or just the organizations to which they belong?

Mr. SALERT. That is right.

Senator DONNELL. How many organizations actually belong to the Jewish Labor Committee?

Mr. SALERT. About 117.

Senator DONNELL. About 117. Then the membership of those 117 organizations is the one in excess of one-half million.

Mr. SALERT. The membership of the 117 organizations make up about 3,000,000 men and women. The Jewish members—

Senator DONNELL. Of those 3,000,000, one-half million are Jewish men and women. I see. All right; proceed, Mr. Salert.

Mr. SALERT. We believe in the American principle that every person willing and able to work has the right to a job commensurate with his ability. When this right is denied, then the confidence of our people in the efficiency of democratic government is weakened and the foundations of our democracy are undermined. How much more dangerous to American principles is the practice which one finds in some places of employment, of distinguishing between one group of persons who are hired, promoted, and paid on the basis of ability, and

other groups who are denied jobs or the pay to which their ability entitles them because they belong to a disfavored religious, racial, or national grouping.

It is unnecessary for me to argue the justice of the Ives-Norton bill, or the fact that its passage is in the interest of the groups now suffering from discrimination. I am rather more concerned to point out that its adoption is in the interest of every productive American citizen. Discrimination in employment strikes, to a greater or lesser extent, at every working member of the community. The cases of discrimination which have been handled by the Federal and State commissions prove that there is no group that is immune from discrimination. While substantial numbers of cases are recorded of discrimination against Negroes, Mexicans, and orientals, against Jews and Catholics, against Italians, Irish, and Slavs, the records also show that some members of any group you can name have been discriminated against in certain situations by one employer or another, so that even in the narrowest sense the proposed bill serves as protection for all races, religions, and nationalities.

In a broader sense, however, our whole history and the experiences of the war period has taught us that the attack on the rights of one group is a menace to the entire community; that when the rights of one section are denied, the rights of all others are in danger. For the majority of the American people who work for wages or salaries, the low standards and evil conditions which result from discrimination against one group continuously depress and menace the standards of all wage and salary workers in the Nation.

Our wartime experience proves that the employment of persons on the basis of ability, and regardless of nationality, race, and creed, is in the economic interests of the entire country. At no time has production been so great or efficient. There is no evidence that at any period in our history has there been greater harmony among workers in plants and offices. The evidence proves what common sense should have taught us, that if we draw our workers from the total labor force, entirely on the basis of ability, we will get the most efficient possible production and lower prices resulting from this greater efficiency.

The question of the preservation of peace in the world and the protection and extension of democracy abroad will be determined in part by the comparative world support which the United States will achieve as opposed to the U. S. S. R. The totalitarian forces of the world are working overtime at extending their influence. Arms play only a minor role in the extension of totalitarian influence today. The major role is played by propaganda. Throughout Central and South America, in India, Japan, and other Asiatic countries, in Africa, in Italy, in France, totalitarian expansion and the struggle against democratic forces is closely allied with anti-American propaganda. Every item of discrimination which can be shown to exist in the United States serves as fuel for the totalitarian propaganda machine. This propaganda machine, the most powerful in the world, rejoices at every discriminatory practice, at every racist influence which they can truthfully describe as present in the United States. We cannot fight propaganda with arms. We must fight it with truth.

We must be able to say and to demonstrate that in the United States, it is illegal to discriminate in employment against any individual because of his race, creed, color or national origin. Job discrimination

in the United States is doing more for the spreading of communism than can hordes of totalitarian agents. For America's role in world affairs, it is imperative that we assure our minorities equal treatment at home, and deprive our Nation's enemies of one of their most potent weapons.

I would like to bring to the attention of the committee members a bill which was made into law in the State of Saskatchewan, Canada, in April of this year entitled, "The Saskatchewan Bill of Rights." This small rural state of our northern neighbor has adopted a bill of rights which might well serve as a model for all the nations of the earth. This brief document of a few hundred words guarantees to each person: Freedom of conscience; freedom of religion; freedom of expression in speech, press, radio, and the arts; freedom of assembly and association; freedom from arbitrary arrest and detention; universal suffrage; freedom from discrimination in employment, compensation, and conditions; freedom from discrimination in the right to enter any occupation or business; freedom from discrimination in the purchase or rental of homes and real property; freedom from discrimination in admission to hotels, restaurants, theaters, and other public places; freedom from discrimination by professional societies, trade unions, occupational organizations; freedom from discrimination in educational institutions; and, the outlawing of any publication, radio broadcast or other communication which would tend to restrict the equal rights of persons because of their race, creed, color, or national origin.

Certainly, what this small state can do in behalf of justice, the great and powerful United States Government is capable of doing.

The principle, upon which the bill to prohibit discrimination in employment is based, was enunciated by the founders of our great nation in the Declaration of Independence, the proclamation of which has become the occasion for our greatest national holiday, Independence Day. In the Declaration, the pioneers of America's independence declared that they regard it as "self-evident that all men are created equal," and that among their "inalienable rights" are "life, liberty, and the pursuit of happiness" and "that to secure these rights, governments are instituted among men." Certainly, discrimination in employment against any individual or group because of his race, religion, color, national origin, or ancestry is a violation of the principle of human equality. Surely, the denial to a citizen of a job, promotion, or salary, which would otherwise be open to him, denied as a result of his color or religious creed, is the deprivation of life, liberty, and the pursuit of happiness. Clearly, the founding-fathers of our Republic regarded it as a responsibility of our Government to protect citizens from such inequalities and deprivations. It is most appropriate that in this, the season in which falls our Independence Day, this Congress pass the bill which will do so much to achieve the goals of our Government as set forth by our great predecessors and will relieve one of the gravest injustices of which our nation has ever been guilty.

In the name of the Jewish Labor Committee, I ask you to report favorably Senate bill 984.

Senator DONNEL. Mr. Salert, how long have you been associated with the Jewish labor committee?

Mr. SALERT. October 1944; ever since I left the armed forces.

Senator DONNELL. Oh, yes; and what was your business or profession prior to going into the armed forces?

Mr. SALERT. I was New York State director for CIO Community Services.

Senator DONNELL. And how long were you with CIO Community Services?

Mr. SALERT. From its inception to the day I left for the armed forces.

Senator DONNELL. When was its inception?

Mr. SALERT. July 1942.

Senator DONNELL. So you were with the CIO and for about 2 years; is that right?

Mr. SALERT. That is right.

Senator DONNELL. And before that what had been your business?

Mr. SALERT. Organizer for the Amalgamated Clothing Workers of America; from 1936 to 1942.

Senator DONNELL. Is that a CIO organization also?

Mr. SALERT. The Amalgamated Clothing Workers?

Senator DONNELL. Yes.

Mr. SALERT. Yes, sir.

Senator DONNELL. What had you been doing before 1940?

Mr. SALERT. Going to college.

Senator DONNELL. Where did you take college work?

Mr. SALERT. New York University, city of New York.

Senator DONNELL. Graduate of that university?

Mr. SALERT. Yes, sir.

Senator DONNELL. What degree did you get?

Mr. SALERT. Bachelor of science.

Senator DONNELL. Very well, sir.

Are there any questions of Mr. Salert?

Senator ELLENDER. The witness has evidently had a lot of experience in the labor field. To what extent have Jewish people been discriminated against in New York?

Mr. SALERT. I have not any figures, but I do know that in the city of Rochester there was not a possibility for a person of Jewish faith or Italian Catholic to receive employment in one of the great industries of that city up until the war when the shortage of labor made it imperative for that organization to hire people regardless of their race, creed, or national origin.

Senator ELLENDER. What was that industry?

Mr. SALERT. Eastman Kodak Corp.

Senator ELLENDER. How many people did it employ?

Mr. SALERT. Approximately 5,000.

I think it was a lot more during the war years.

Senator ELLENDER. What was the reason assigned?

Mr. SALERT. There was no reason, they just did not hire; you just could not get a job. A Negro could get a job as sweeper, that is all. During the war years with the impact of war production, it was possible to receive employment in almost every industry. The FEPC helped; the trade unions did a good job in that respect.

Senator ELLENDER. Was the labor of that industry organized?

Mr. SALERT. No, sir.

Senator ELLENDER. Open shop?

Mr. SALERT. That is right; unorganized.

Senator ELLENDER. Well, how many, to your knowledge, how many Jewish people applied and were refused employment?

Mr. SALERT. To my knowledge, I know of only a handful. But I do know what was the prevalent thing in that community. And the thing in that community was that there was not any possibility of employment if you were Jewish or Irish or Italian Catholic.

Senator ELLENDER. How many complaints came to your knowledge?

Mr. SALERT. They did not come to my knowledge because I had no direct contacts with that organization. I was an organizer for the Amalgamated Clothing Workers.

Rochester is a very important center for men's clothing industry in New York State; but I do know what the workers told because basically most of the workers in the Rochester garment market were either Italian Catholic or Jewish workers; and they did tell their stories at union meetings when they wanted to or decided to get out of the garment industry and get into another industry. I think maybe the Senator knows about it. He held hearings in the city of Rochester.

Senator IVES. We got the same information from Rochester.

Senator ELLENDER. Well, what class of people were employed at Eastman Kodak Co.?

Mr. SALERT. Working men and women.

Senator ELLENDER. I know, but you say Jews and Italians were not permitted. Were all others except, as you say, the colored sweepers?

Mr. SALERT. Yes; and there were white Protestants for production jobs employed there to the best of my knowledge.

Senator ELLENDER. Now, can you give any other examples?

Mr. SALERT. Yes; in the city of New York for a long time it was not possible for either Jewish or Negro women to be employed as telephone operators in the New York Telephone Co. or in the other public utilities operating in the New York area.

With the advent of the Ives-Quinn Fair Employment Practices Act that policy of the corporation was changed overnight and there has not been any real problem that has faced the corporation with the change of its policy.

Senator ELLENDER. What other industry, to your knowledge, refused to hire Jews?

Mr. SALERT. I have no other information on that score, sir.

Senator IVES. Let me ask a question if I may, on that. While you are on that subject, do you find that discrimination in New York State is today nearly wiped out as a result of this effort to eliminate it? It is almost gone, is it not?

Mr. SALERT. That is right; and there has not—

Senator ELLENDER. There was evidently very little of it as I understand the witness; he states that as far as he knew in New York City it only applied to the utilities.

Mr. SALERT. That is because I have not the figures for other cases, sir.

Senator ELLENDER. But as a labor recruiter and labor organizer—

Mr. SALERT. I have been active in the garment field which has been highly organized throughout the United States for a good many years and there is no discrimination in the garment industry, either in the men's clothing or ladies' clothing because you have a very strong and powerful union set-up in that industry.

Senator ELLENDER. Closed shop?

Mr. SALERT. Not always, union shop, closed shop; yes.

Senator ELLENDER. And, of course, there was no discrimination practiced in the unions at all as to that?

Mr. SALERT. No; as a matter of fact, I just came from a convention of the International Ladies' Garment Workers Union where the report was made that more than 37 nationalities belong to one local union, the Dressworkers of New York, and they live in peace and enjoy all the benefits of democracy, sir.

Senator ELLENDER. Are you familiar with the operations of the FEPC of old?

Mr. SALERT. Are you talking about the President's order?

Senator ELLENDER. I am talking about the President's order.

Mr. SALERT. To some extent.

Senator ELLENDER. Do you believe it was right for the Commission to exercise its functions to such an extent as to break down segregation laws in those States that had it by law and by rule and by custom?

Mr. SALERT. I do not know about the acts of the Commission in such cases, sir. So I could not possibly comment on that.

Senator ELLENDER. I am asking you, if it did occur, do you think it was right?

Mr. SALERT. I would have to know a lot more about why it was right and why it was not right. I would have to know the details of the ruling of the Commission before I could honestly give you an answer.

Senator ELLENDER. Well, I suppose you are familiar with the Maryland case we cited here on many occasions?

Mr. SALERT. Well, I am not—

Senator ELLENDER. You had a company there that employed colored and whites; there were facilities for both whites and blacks, one marked "Colored" and the other "White." Well, the colored insisted that the wall between the two facilities be broken so as to let everybody use the same facilities without discrimination.

Now, that was the custom and we have segregation laws in that State.

Do you think the Commission should have gone that far in the exercise of its duties?

Mr. SALERT. I do not know about the particular plant, sir, and I do not know whether or not the Negroes and whites belonged to the same union or whether or not there was any kind of educational campaign waged by the union or the workers themselves for racial and religious understanding among all people, but I would say, certainly say, that if it was the will of the workers of the plant, the Commission was right in ruling that wall should be broken.

Senator ELLENDER. But it was not, because it caused a strike.

It was not the will of the workers; that was the trouble. It was an edict that was proposed by the Commission.

Mr. SALERT. I do not think we have the problem in S. 984 and I do think that the educational features of the bill do a lot to eliminate all of the tensions that sometimes can be waged by certain rulings.

Senator ELLENDER. Let me ask you this: Do you believe in the segregation of the races as we have it in the South, where you are given the same facilities?

Mr. SALERT. I would give the same facilities.

Senator ELLENDER. You believe in segregation?

Mr. SALERT. I believe that all human beings are free and equal.

Senator DONNELL. What is the answer to the question as to whether you believe in segregation?

Mr. SALERT. I do not.

Senator ELLENDER. You think that the white children and colored children should all mix and go to the same schools and the same place?

Mr. SALERT. Yes, sir; they have gone to the same schools in a good many States of this Union and there has never been any great difficulty.

Senator ELLENDER. And your views would not be tempered where the facts are that the colored and the white are equal—that is, 50-50. You would advocate the same policy?

Mr. SALERT. Yes. I know schools where the colored are 90 percent and the whites are only 10 percent.

Senator ELLENDER. That may be true in some places like Harlem or some places in Brooklyn.

Mr. SALERT. In places like the city of Detroit, sir.

Senator ELLENDER. Yes; where you have colored aggregations in particular localities in the city; that is correct; I grant that.

Mr. SALERT. And that there has been never any disturbance because of it and the children have all gotten the benefits of a good education.

Senator ELLENDER. That is only in recent years; is it not?

Mr. SALERT. I could not say so, but I do know that in the city of New York and throughout the State of New York and throughout the State of New Jersey and it has been practiced for a good long time.

Senator ELLENDER. I had Detroit in mind.

There have been quite a few racial difficulties out there in recent years, have there not?

Mr. SALERT. That is right.

Senator ELLENDER. Section 5 (a) (1) which Senator Donnell quoted a while ago reads as follows:

It shall be an unlawful employment practice for an employer to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of the individual's race, religion, color, national origin, or ancestry.

Would you say that under that provision segregation barriers may be obliterated by the Commission in States where it is legal and in States where it is customary?

Mr. SALERT. I do not think so, sir. I think the kind of Commission we had to administer the law is what will determine. I know that in the State of New York—

Senator DONNELL. Would not determine? I say the character of the Commission will not determine the legal effect of the meaning of that section to which Senator Ellender referred, will it? That is, the section means what it means and regardless of the personnel of the Commission, whatever the legal effect of that section is, it stands, does it not?

Mr. SALERT. That is right.

Senator ELLENDER. Do you not think it is subject to the interpretation that it may be used to break down segregation barriers?

Mr. SALERT. I do not think it will be used—

Senator ELLENDER. Do you think it is subject to that interpretation? It is plain English.

Mr. SALERT. It may be but I do not think so.

Senator ELLENDER. That is all.

Senator DONNELL. Are there any other questions?

Senator IVES. No questions.

Senator DONNELL. Just a very few questions, Mr. Salert.

You referred to the situation existing in the Eastman Kodak Co. I am not familiar with that situation but I wanted to know just how much you personally know about it. Are you just taking it on hearsay or did you go into Rochester and make an investigation there?

Mr. SALERT. I spent about 5 months in the city of Rochester and Buffalo and spoke at approximately 40 different union local meetings.

Senator DONNELL. Yes.

Mr. SALERT. And these talks were almost all on human relations and improved race relations and in almost every instance I was told by someone in the audience about the practices of this particular concern.

Senator DONNELL. Eastman Kodak Co.?

Mr. SALERT. That is right.

Senator DONNELL. Did you make any inquiry of the officials of the Eastman Kodak Co. to find out what their side of it was?

Mr. SALERT. There was not that possibility. The Eastman plant was unorganized. They had absolutely no contact with organized labor in the city of Rochester; there was no possibility of contacting or getting the information. I did see an employment form which had race, creed, color, and national origin on the employment form.

Senator DONNELL. On the employment form.

Mr. SALERT. That is right; that is, they called for that information.

Senator DONNELL. But you did not inquire of any official of the Eastman Kodak Co. to find out whether or not it is true that that company did discriminate against Negroes, Catholics, and so on?

Mr. SALERT. I never applied for employment.

Senator DONNELL. I did not ask you that; I asked whether you made inquiry of any official of that company.

Mr. SALERT. I never did.

Senator DONNELL. And your information was derived solely from what people would say who were in these various audiences to which you referred; is that right?

Mr. SALERT. Yes, sir.

Senator DONNELL. Now, the telephone company and other public utilities, did you personally conduct an investigation there to ascertain whether or not there was the discrimination to which you refer?

Mr. SALERT. I did not, sir.

Senator DONNELL. You did not make any inquiry of the officials of either of those companies or any one of those companies to find out what if any admission they might make in regard to that matter; that is correct, is it not?

Mr. SALERT. Yes.

Senator DONNELL. That is all, Mr. Salert.

Senator ELLENDER. Did you participate in the hearings that led to the enactment of the Ives bill in New York?

Mr. SALERT. I did, sir.

Senator ELLENDER. Well, on the basis of the testimony adduced at these hearings and then the passage of the bill, and then its administration for the past 2 years, are you not a little surprised at the few

cases that have come before the commission? We have testimony here that only 500-some-odd were actually filed, or 600, and there were less than half of those actually adjusted.

Mr. SALERT. Just because there is an Ives-Quinn bill.

Senator ELLENDER. I am asking the question, Are you not surprised at the small number?

Mr. SALERT. No, I am not; and I will tell you why, sir; because we have a law in the State of New York which states that there shall be no discrimination in employment. We have no discrimination in employment. And if we have a Federal law, I am sure we will have few cases because of the strength that that law would have on the thinking of individuals.

Senator IVES. You want to add one more thing in that connection, and that is the broad educational program that is being carried out constantly in that connection.

Mr. SALERT. We participate; our agency participates as an advisory agency to the commission together with scores of other interfaith agencies in this particular field, and I am sure that the educational features of S. 984 would also have a worth-while effect on the thinking of our people in the United States of America.

Senator DONNELL. Anything further, gentlemen?

(No response.)

Mr. Salert, we are much obliged to you for your testimony and for appearing here.

Our next witness is E. Pauline Myers, national legislative representative, civil liberties department, Improved, Benevolent, Protective Order of Elks of the World.

STATEMENT OF E. PAULINE MYERS, NATIONAL LEGISLATIVE REPRESENTATIVE, CIVIL LIBERTIES DEPARTMENT, IMPROVED, BENEVOLENT, PROTECTIVE ORDER OF ELKS OF THE WORLD

Senator DONNELL. You are Miss Myers—E. Pauline Myers?

Miss MYERS. Yes.

Senator DONNELL. You are the legislative representative of the Elks department of civil liberties?

Miss MYERS. Yes, sir.

Senator DONNELL. Where is your home, Miss Myers?

Miss MYERS. My home is in Washington, D. C.

Senator DONNELL. You are employed by the Elks department of civil liberties as its representative?

Miss MYERS. Yes, and I reside in Philadelphia, at the headquarters of the civil liberties department.

Senator DONNELL. I see. I am not clear; I thought you resided in Washington.

Miss MYERS. No, sir; I do not; I reside in Philadelphia.

Senator DONNELL. You reside in Philadelphia?

Miss MYERS. Yes, sir.

Senator DONNELL. What about Washington?

Miss MYERS. I come in and out of Washington.

Senator DONNELL. You come in and out of Washington, but you reside in Philadelphia?

Miss MYERS. Yes, sir.

Senator DONNELL. Where were you born?

Miss MYERS. Bowling Green, Va.

Senator DONNELL. And what was your education, Miss Myers?

Miss MYERS. I am a graduate of Hampton Institute, of Howard University, and I have taken graduate courses at Temple University and the University of Chicago.

Senator DONNELL. What degree, if any, do you hold?

Miss MYERS. I hold the A. B. degree in education.

Senator DONNELL. And what is the Elks department of civil liberties? Is that a department of the Elks order?

Miss MYERS. Yes, sir; of the Elks organization.

Senator DONNELL. Is that the Benevolent and Protective Order of Elks?

Miss MYERS. Yes, sir.

Senator DONNELL. Or is it the colored branch of that organization?

Miss MYERS. Sir, it is an independent organization.

Senator DONNELL. I see; it is composed exclusively of persons of the Negro race?

Miss MYERS. Not exactly; we have in our lodge in Philadelphia members of the Jewish religion that are affiliated, but generally the membership is Negro.

Senator DONNELL. Now, the department of civil liberties I understand to be a department, then, of this larger organization.

Miss MYERS. Of the grand organization; yes, sir.

Senator DONNELL. And the grand organization, what is the official name of it?

Miss MYERS. It is the Improved Benevolent Protective Order, Elks of the World.

Senator DONNELL. How large a membership does it have?

Miss MYERS. We have 500,000 members. We have 613 lodges and 593 temples in the United States and in the Canal Zone.

Senator DONNELL. Are those lodges and temples scattered pretty much throughout the entire United States?

Miss MYERS. Throughout the entire United States and in all of our large cities.

Some cities have seven; our city of Philadelphia has seven.

Senator DONNELL. Your membership does extend below Mason and Dixon's line as well as north of it?

Miss MYERS. Yes.

Senator DONNELL. Very well; proceed, Miss Myers.

Senator ELLENDER. You stated that the lodge could—or rather consisted of colored and Jews; would you be able to state in what proportion?

Miss MYERS. No, sir; I would not. The organization has no restrictions as to race and it happens as we go in and out of cities that we find where persons of the Jewish group become affiliated and are working.

Senator ELLENDER. You do not know to what extent?

Miss MYERS. No, sir.

Senator ELLENDER. Do you know of any particular lodge in the country—or let me put it this way; do you know how many colored and Jews belong to the lodge in Philadelphia?

Miss MYERS. No; I do not have the membership of the individual lodge, sir.

Senator DONNELL. Miss Myers, you referred to, in the copy which I have before me, and I am anticipating slightly your testimony, to Dr. J. Finley Wilson as grand exalted ruler; where is Dr. Wilson?

Miss MYERS. In Washington.

Senator DONNELL. And Elizabeth Ross Gordon, grand daughter ruler and magistrate?

Miss MYERS. She is in Washington.

Senator DONNELL. And Hobson R. Reynolds, I take it, is of Philadelphia—grand director of civil liberties?

Miss MYERS. Yes, sir.

Senator DONNELL. And Mrs. Therese L. Robinson, assistant grand directress?

Miss MYERS. She is present today.

Senator DONNELL. Does she live here in Washington?

Miss MYERS. She does.

Senator DONNELL. All of these, beginning with Dr. Wilson that I mentioned, are members of the Negro race?

Miss MYERS. Yes; they are.

Senator DONNELL. One other question, too. I understand you are appearing on behalf of this committee, that is, the Department of Civil Liberties, I should say.

Miss MYERS. Yes; but I am appearing in behalf of the entire organization.

Senator DONNELL. Of the entire organization.

Miss MYERS. Of the entire organization.

Senator DONNELL. Has the entire organization—that is, the Grand Lodge of the Improved, Benevolent, Protective Order of Elks of the World—had any convention at which it has expressed itself by resolution on this matter of discrimination in employment?

Miss MYERS. Yes; it has, sir; I do not have the resolutions with me, but from the very inception of the fight for fair employment practices, the Elks organization has been among those that have urged enactment of antidiscrimination legislation. I would say, since 1940.

Senator DONNELL. You may proceed with your testimony.

Miss MYERS. I am by these authorized to appear here before you today to offer testimony in support of bipartisan bill S. 984 "to prohibit discrimination in employment because of race, religion, national origin, or ancestry."

The distinctions between the wartime struggle and the peacetime struggle of minority groups for equal job opportunities are sharp. This shift was made comparatively easy by the forced relaxation of governmental controls which followed closely in the wake of the war. Of these, none had the disintegrating effect of that which followed the shut-down of FEPC and the closing of its offices. The promise of security for minorities, comfort, respectability, and the chance to be accepted as equals stopped short upon the announcement that funds would no longer be appropriated by the Congress for the administration of the antidiscrimination agency. Ever since that time insecurity and uncertainty have dogged the steps of the entire Negro community, so that nobody feels secure in his job. Strong, clear, competent legislative action is needed at once if the

public is to have confidence in the processes of democratic policy making and if the social gains made by minority groups are to be preserved as a part of our culture.

The all-time high in wartime employment swept the Negro into new jobs. Banks, insurance companies, utilities, and other big corporations began during the war to hire Negroes for occupations hitherto reserved for white personnel only. Retail merchandising outfits added Negroes to their sales forces, and small establishments began using them as receptionists, bookkeepers, accountants, secretaries, and so on. This policy was accompanied by equal pay for equal work and gradual upgrading.

Negroes were found in firms employing chemists, physicists, electronics, engineers, draftsmen, mathematicians, analysts, personnel executives, pharmacists, designers, and photographers. The removal of the "For White Only" sign from many jobs during this period opened new horizons and vast new possibilities to the Negro.

A survey of Federal employment issued by the President's Committee on FEPC, December 1943, indicated that "as of July 21, 1943, Negroes were roughly 12 percent of all persons in Federal employment as compared with 9.8 percent in 1938 and that they were 18 percent of all persons in department service." The study also indicated that Negroes were gaining significant employment for the first time in clerical-administrative-fiscal categories.

The survey also indicated a remarkable improvement in Negro employment qualitatively as well as quantitatively.

In departmental service, chiefly in the District of Columbia, 49 percent of all Negro employees were classified as clerical, administrative, and fiscal, 9.9 percent as clerical-mechanical, and 1.1 percent as professional and subprofessional, while 30.6 percent were crafts, protective, and custodial. In 1938 it was reported that 90 percent of all Negro Federal workers in the District of Columbia were custodial, 9.5 percent CAF or CM, and 0.5 percent SP or P.

According to the United States Department of Labor Statistics, January 1945:

The defense and wartime civilian employment of Negroes increased by approximately 1,000,000 jobs between April 1940 and April 1944.

The employment of Negro men rose from 2,900,000 to 3,200,000 during the 4-year period. The number of employed Negro women increased from 1,500,000 to 2,100,000 during the same period.

The proportion of the employed male Negro labor force on farms declined from 47 percent in April 1944, or by 19 points.

The proportion in industry increased by the same amount.

The number of Negroes employed as skilled craftsmen and foremen or engaged as operatives performing basic semiskilled factory operations rose from about 500,000 in both categories to a total of about 1,000,000 during the 4 years.

Slightly over 7 of every 10 employed Negro women were in some service activity in April 1940, and the majority of these were domestic servants.

After 4 years, the proportion working as domestic servants showed a marked decrease, while those engaged in the personal services as beauticians, cooks, waitresses, et cetera, showed a corresponding increase.

The most pronounced occupational shift among Negro women was the shift from farm to the factory. In April 1940, 16 percent of the entire female Negro labor force was on farms; 4 years later that proportion had been halved.

The total number of Negro women employed had increased by about one-third; the number employed on farms had decreased by about 80 percent.

On the other hand, Negro women employed as craftsmen and foremen and as factory operatives almost quadrupled during the period.

Those engaged as clerical workers rose to a number five times as great as in April 1940.

Those wartime gains were accomplished not by the efforts of one agency or two, but rather because a firm national policy, the promulgation of an Executive order, to which all Government services and all war contractors had to give heed, stimulated all groups to rid wartime America of a highly dangerous disunifying force.

But this policy of fair play was of wartime duration only. These Executive Orders 8802 and 9340 had no peacetime basis. Some employers, including some departments of Government itself, could not wait for the dissolution of the FEPC before they reverted to discriminatory practices. Reconversion meant a return to job discrimination.

An analysis of a special survey of job orders received by USES officers in 11 selected areas during the period February 1-15, 1946, revealed 24 percent of the orders to be discriminatory. Of the total 88,105 orders received, 21,171 included specifications with regard to race, citizenship, or religion. Specifications with regard to race comprised the vast majority of discriminatory orders received.

Twenty-six percent of the orders for workers in service and in semiskilled jobs were discriminatory.

Orders for clerical and sales and for professional and managerial jobs showed 22 and 24 percent discriminatory orders, respectively.

Of the 885 orders for Government jobs, 81 included discriminatory specifications. Of these, 31 specified citizenship as a limiting factor to acceptance; the remaining 50 specified race.

Other forms of discrimination suffered by Negro workers as shown by reports other than USES include down-grading and wage losses. There has been a marked increase in the number of discriminatory advertisements for workers appearing in daily newspapers. A study reported in St. Louis, February 1946, showed an average of almost 100 discriminatory ads per day.

Another form of discrimination against Negro workers is related to the inability to get industrial training. In areas which have segregated schools, it is reported that while trades such as aviation, mechanics, radio, commercial arts, drafting, machine shop, pattern making, sheet metal, sign painting, and welding are taught in white schools, on the other hand, building maintenance, home management, cooking, masonry, shoe repair, tailoring, and home nursing are taught at Negro schools; occasionally a few courses such as auto mechanics and carpentry are taught at both. In northern areas often it is the case that while vocational schools admit them for study, apprenticeship training is not generally available to them except in Negro businesses, because of the joint refusal of both unions and employers to accept them. This is essentially a burden to veterans, especially to those presently training or desiring to train under the GI bill.

Whereas during the war Negro workers achieved new and significant representation in the skilled, professional, and managerial cate-

gories, by now they are receiving either very few or no opportunities at all at these levels. On the other hand, local USES offices show a rapid increase in employment in unskilled and service occupations. The USES labor market analysis also shows that while Negroes made important industrial gains during the war both as to industries and occupations entered, now labor and service jobs presently constitute almost 80 percent of their placements.

These foregoing facts firmly convince us that only a firm national policy guaranteeing equal job opportunities and supported by provisions granting full enforcement powers can guarantee to a worker of a minority group the right to seek, secure, and pursue the employment of his choice, and for which he qualifies, without respect to race or religion.

However, the first step is the conception of the idea of fair employment, the proclamation of principles, the formulation of the doctrine.

The second step is the constituting of legal machinery and the delegating of the necessary power and authority to put into practice the new-found principles. Each of these preliminary conditions is met by the provisions contained in the National Act Against Discrimination in Employment—Senate bill 984.

The ultimate goal of our efforts on the domestic front must be the solution of our economic and social problems. What the 13,000,000 Negro people of America want on this earth is enough food, better housing, clothing, medical care, and education, more enjoyment of culture, a little leisure, and security in old age. These goals are not Negro goals. These are the real goals of all human society, the aspirations of ordinary men everywhere.

None of us can have these things as long as the specter of unemployment upsets our calculations, for in times of depression the Negro is among the first to suffer and after him all other American workers.

I am convinced that American public opinion, now so divided on matters respecting race, can be unified only on the basis of a concrete and workable plan of domestic policy.

No decision taken by our late Chief Executive, Mr. Roosevelt, met with such wide acclaim by minority groups throughout the United States as the promulgation of Executive Order 8802, June 25, 1941. Negroes hailed it as their second emancipation. There is every evidence that the progressive people of America thought so, too, for FEPC gave to that administration its first favorable press notices on a domestic issue for several years.

If we here in these United States of America continue our policy of recognizing racial and religious distinctions in our employment practices, and all the while maintaining our industrial economy, and if at the same time we want to make industrial progress, then we are bound to arrive at totalitarian fascism.

If, on the other hand, we believe that a free democratic way of life is what we want and that an intensification of industrialism and mass production is what we need, then we must remove the racial and religious barriers blocking the road to that goal and replace them with a democratic policy in which development toward political and economic freedom and wealth can be realized.

We must go forward step by step, and the enactment of S. 984 by our great and respected Eightieth Congress can certainly be advanced as a step in the right direction.

This bill offers no cure-all for all the conditions relative to unemployment. The winning of equal job opportunities is only one of the battles in the Negroes' eternal struggle for justice, equality, and for democracy.

However, the Eightieth Congress can by the enactment of this one piece of legislation alone and by the promulgation of a firm national policy tolerating no discriminations of this sort give the lie to those arrogant bigots whose open repudiation of democracy at home, while loudly defending it abroad, have made of our professed democratic institutions a sham and a public mockery.

All these members of the body politic are personal beneficiaries of the Jim Crow system, incapable of independent thinking and victims of the scandalous propaganda of history. We can expect from them neither constructive ideas nor constructive measures.

Those men and women are solidly entrenched in the Fascist creed of white supremacy at home and will defend to the last the fetishes, taboos, and superstitions of a Jim Crow society, which offers such unparalleled privilege and opportunities for them.

American foreign policy demands a new racial theory. Such a democratic pronouncement of policy cannot help but win friends for us abroad. Social legislation with emphasis upon minority group welfare is widely regarded as a test for American strategy in world affairs, and a measure of the flow or ebb of the democratic tide in the impoverished East, especially as it concerns these millions of colored peoples and their apparently vain quest for racial equality. Their good will and favor is needed now more than ever.

The need of a faith today on the part of these peoples cannot be overexaggerated. When old faiths waver it is instinctive to seek new ones to replace them. Some morally harassed intellectuals of Burma, India, and China, and places elsewhere have begun already to embrace new faiths eagerly, ardently, and fanatically. Long since tired of being the white man's burden, a consistent propaganda campaign waged against Anglo-American world domination will find these dark-skinned, excluded peoples not only willing patriots but also crusaders.

Intelligent, far-reaching legislative enactments designed to rid the United States of America of some of its glaring inequalities between peoples will go further than armies to bolster the morale of Secretary of State Marshall and of President Truman in their foreign policy proposals. In this connection the passage of S. 984 constitutes a major strategy. In the present crisis of the world, the inquiring citizen may well look into this matter. The ability to fulfill the promises of democracy will be a greater defense against a "final" world war than billions of dollars spent for armaments and for the maintenance of privilege.

I want to take this opportunity in behalf of the Improved, Benevolent Protective Order of the Elks of the World and in the name of our grand exalted ruler, Dr. J. Finley Wilson, to thank the gentlemen of both our major parties who have seen the wisdom to affix their signatures to this bill. These gentlemen have chosen to take a creative part in one of history's most dramatic adventures, the building of a unified nation. But the principal role in this great mission falls upon you, the gentlemen of this Committee on Labor and Public Welfare, and finally upon the Congress as a whole.

Yours is the indispensable task of reporting this bill out favorably upon the floor. I believe you will accept the challenge.

Senator DONNELL. Miss Myers, attached to your statement is a series of tables. Do you offer those for the record?

Miss MYERS. Yes, sir; I do, sir, if they are needed.

However, you will find in my entire statement or complete testimony evidence supporting these statistics.

Senator DONNELL. Very well. The committee will determine what if any portion of the tables may be necessary or desirable to be incorporated in the record.

(The tables referred to are as follows:)

APPENDICES

HOW NEGROES FITTED INTO THE EMPLOYMENT PICTURE PRIOR TO THE ISSUANCE OF THE EXECUTIVE ORDER

Percent distribution of major occupation group for employed persons, by race and sex for the United States, 1940, except for emergency work

Area and major occupation group, United States	Total		White		Negro		Other races	
	Male	Female	Male	Female	Male	Female	Male	Female
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Professional workers.....	4.4	12.3	4.7	13.7	1.6	4.1	1.7	4.2
Semiprofessional workers.....	1.1	0.9	1.2	1.0	0.2	0.2	0.7	0.5
Farmers and farm managers.....	14.7	1.7	14.0	1.1	21.1	3.0	20.1	5.5
Proprietors, managers and officials, except farmers.....	0.8	3.8	10.6	4.3	1.3	0.7	8.7	4.1
Clerical, sales and kindred workers.....	12.8	28.3	13.9	32.8	2.0	1.3	8.0	11.8
Craftsmen, foremen, and kindred workers.....	14.8	1.0	15.6	1.1	4.4	0.2	3.2	0.1
Operatives and kindred workers.....	18.2	18.4	18.6	20.3	12.5	0.2	9.8	24.6
Domestic service workers.....	0.4	17.7	0.2	10.9	2.9	69.8	3.7	16.8
Protective service workers.....	2.0		2.1		0.8		0.9	
Service workers (other).....	4.8	11.3	3.7	11.4	11.8	10.4	13.8	11.7
Farm laborers (wage workers and foremen).....	8.4	0.9	4.8	0.3	14.1	4.0	18.5	4.2
Farm laborers (unpaid family workers).....	2.8	2.0	2.8	0.0	5.7	8.3	4.8	14.0
Laborers (except farm).....	8.7	0.9	7.8	0.9	21.2	0.8	7.9	0.8
Occupation not reported.....	0.7	1.2	0.7	1.3	0.6	0.7	0.6	1.2

Percent distribution of persons 14 years old and over, by employment status, class of worker, race, and sex, for the United States, 1940

Employment status	All classes			Race			
				Native white		Negro	
	Total	Male	Female	Male	Female	Male	Female
Persons 14 years old and over.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
In labor force.....	82.0	79.0	25.4	78.7	24.8	80.1	37.8
Engaged in own home housework.....	28.6	0.5	56.7	0.5	57.0	0.5	41.0
In school.....	8.9	9.1	8.7	10.4	9.8	7.7	8.4
Unable to work.....	8.2	8.9	4.6	5.1	3.6	8.8	7.2
In institutions.....	1.2	1.6	0.8	1.8	0.8	2.8	0.8
Other and not reported.....	8.9	4.0	3.9	3.9	3.8	2.2	4.0

Labor force, by employment status

Employment status	All classes			Race			
	Total	Male	Female	Native white		Negro	
				Male	Female	Male	Female
In labor force.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Employed (except public emergency work).....	85.6	85.2	86.7	85.4	86.5	82.0	85.3
At work.....	3.4	33.2	24.3	83.4	81.0	80.8	83.6
With a job.....	2.1	2.0	2.6	2.0	2.5	1.2	1.8
On public emergency work.....	4.6	5.2	3.6	5.2	3.8	7.2	3.3
Seeking work.....	9.6	9.6	9.7	9.3	9.7	10.8	11.3
Experienced workers.....	8.2	8.5	7.4	8.0	7.0	9.7	9.9
New workers.....	1.5	1.2	2.4	1.3	2.7	1.1	1.5

Employed worker, by class of workers

Employment status	All classes			Race			
	Total	Male	Female	Native white		Negro	
				Male	Female	Male	Female
Employed (except public emergency work).....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Wage and salary workers.....	74.7	70.7	80.9	70.6	88.7	68.9	78.7
Employed and own-account workers.....	21.6	25.9	8.4	28.9	7.8	25.0	11.1
Unpaid family workers.....	3.2	3.0	3.8	3.1	2.6	5.6	8.6
Class of worker not reported.....	.5	.4	.9	.4	.9	.3	.6

Are there questions?

Senator ELLENDER. I have just one question.

To what extent, if any, does the organization which you represent advocate social equality between the whites and the colored?

Miss MYERS. Sir, I believe that our organization as a whole speaks for the things we have mentioned in the testimony. If these things would constitute social equality then I believe our organization would support it.

Senator ELLENDER. That is what you said in your testimony.

Miss MYERS. Yes.

Senator ELLENDER. That is all.

Senator DONNELL. Miss Myers, we are grateful to you for appearing this morning and giving us your testimony.

Our next witness is Mrs. Sylvia Wubnig, National League of Women Shoppers, Inc.

Mrs. Wubnig.

STATEMENT OF MRS. SYLVIA WUBNIG, THE NATIONAL LEAGUE OF WOMEN SHOPPERS, INC.

Senator DONNELL. Please state your name, address and the organization for which you appear.

Mrs. WUBNIG. I am Mrs. Sylvia Wubnig; I live at 1816 Kalorama Road, Washington, D. C. I am representing the League of Women Shoppers, which is a nonpartisan, nonpolitical consumers' organization interested in maintaining American standards of living and in

safeguarding and improving labor standards and working conditions. We have branches in eight States.

Senator DONNELL. What is the total membership?

Mrs. WURNIG. We have about 8,000 members.

Senator DONNELL. What are those States, if you can name them?

Mrs. WURNIG. New Jersey, New York, Minnesota, Colorado, Florida, Ohio; does that make eight?

Senator DONNELL. That is six.

Mrs. WURNIG. Washington, D. C.

Senator DONNELL. You count that as one of the States.

Mrs. WURNIG. Yes.

Senator DONNELL. That leaves one; do you recall what that one is?

Mrs. WURNIG. I cannot offhand; I am sorry.

Senator DONNELL. Is the other one a southern State, do you recall?

Mrs. WURNIG. Nebraska.

Senator DONNELL. Florida is the only southern State?

Mrs. WURNIG. Yes, sir.

Senator DONNELL. How large a membership does your organization have in Florida?

Mrs. WURNIG. I do not know the individual break-up of the membership.

Senator DONNELL. You have no idea as to approximately how many members?

Mrs. WURNIG. No; I do not.

Senator DONNELL. Do you know how many chapters of the organization you have in Florida?

Mrs. WURNIG. I think that our major chapter is in Miami.

Senator DONNELL. Do you know whether you have any other chapters in Florida?

Mrs. WURNIG. Yes; but I do not know where the membership is drawn from.

Senator DONNELL. You have only that one chapter in Florida?

Mrs. WURNIG. That is right.

Senator DONNELL. Will you proceed?

Pardon me just a moment; is your membership confined to the members of any one race or is it nondiscriminatory?

Mrs. WURNIG. We have no bars upon our membership. We make no distinction as to race, creed, or color.

Senator DONNELL. Very well; will you proceed with your testimony?

Mrs. WURNIG. And with reference to our program and our policy, if I may quote from the prospectus in which is the definition of our program and policies, fighting discriminatory employment practices has always been a major part of the league's activity.

So that we know that all our members are supporters of this work. They would not be members otherwise because it is a major platform in our work.

Senator ELLENDER. How do you maintain yourselves?

Mrs. WURNIG. Only by the membership dues.

Senator ELLENDER. Were you born in Washington?

Mrs. WURNIG. No, sir; in New York City.

Senator DONNELL. Have you ever lived in the South except as Washington may be considered South?

Mrs. WURNIG. No, sir; I have not.

Senator DONNELL. Very well.

Mrs. WURNIG. We endorse S. 984 because we believe that discrimination against any minority depresses the standards of living for all; that it wastes human resources, and that it threatens the moral basis of the American concept of liberty and justice. We endorse with profound gratification the statement of policy expressed in this bill, and the recognition in that statement that the United States must take positive steps to safeguard human rights and fundamental freedoms by declaring the right to employment without discrimination as to race, religion, color, national origin, or ancestry as a civil right.

The significant results that can be achieved through education and conciliation have been demonstrated by the experience of the President's Committee on Fair Employment Practices. But we recognize, also, that some cases of discrimination in employment will not yield either to education or conciliation, so that enforcement measures are necessary. To strengthen both education and enforcement we would like to suggest revisions that would more fully implement the purposes of this bill.

And gentlemen, I would offer this purely as suggestions; we are not legal experts so you very easily trip me on legal technicalities.

Senator DONNELL. We shall not endeavor to do so.

Mrs. WURNIG. But these are suggestions that have occurred to us that we would like to offer for your consideration and they are not in any way to be considered, I hope, as criticisms of the bill or its purposes.

These are suggestions to strengthen both the enforcement and the education provisions that are included in the bill. The definition of employers, labor organizations, and contractors with the United States in this bill are those with 50 individuals or more. Such a definition seems to us eliminates labor groups of enterprises and organizations that would be unnecessarily relieved of responsibility. An enterprise of 25 workers is already beyond the size that the average family enterprise employs and is an establishment where impersonal relationships already obtain. It seems to us, also, that it might provide a possible loophole for evasions, by encouraging breaking up larger units into units of less than 50. We recommend that the individuals in a unit, therefore, be 25 rather than 50.

Senator IVES. May I raise a question there, Mr. Chairman? I can understand your reasoning in that connection; if you are going to be perfectly logical in this, you should not have any exception at all. We ran into this whole controversy in the State of New York in the consideration of this particular type of legislation.

Finally, as a workable approach we selected six. The question arises, of course, as to what is workable.

It has been thought in the determination here of 50 that if we get it down to include 50 we are going to include a vast majority of all the workers in this country and that once you get the thing established on that basis the rest almost automatically fall in line; therefore the arbitrary 50 is on the basis of workability.

Mrs. WURNIG. We understand the problems.

Senator IVES. I answer some of these things as we go along. These have been explored not so much by this committee but in years gone by.

Mrs. WURNIG. As I say, Senator, we understand the problems and difficulties that have been faced in the drafting of this legislation and

as I say, these are just suggestions for whatever use you may feel they have for you.

We regret that the exemptions include precisely those employers whose position in the community requires that they set the example of just and democratic principles.

Senator DONNELL. Those exceptions are the ones set forth in section 4?

Mrs. WUBNIG. Yes, sir.

There is no question that bona fide occupational requirements are valid in specific cases, but it is anomalous to free from responsibility those bodies which govern and those institutions which provide the cultural patterns of the community.

Would the Senators care to comment on that?

Senator Ives. Those exceptions were made for the very same reason that the limitation of 50 was placed on them, a matter of workability. The minute you get into that group you are talking about, you are going to run into a terrific amount of difficulty because of conditions within the groups wherein there would be natural resistance and inasmuch as the general pattern is established by eliminating them and including all the rest, it was thought advisable here just as with the New York law—these same exceptions are in the New York law—to eliminate those particular groups.

Mrs. WUBNIG. As I say, we recognize that and—

Senator Ives. It is a question of the practical approach.

I mean, if you want to be perfectly literal about this, you can go down and say that every last single individual and every last single organization in this country should be included. But I am afraid you would have something there that would not be workable.

Mrs. WUBNIG. As I say, we merely wish to insert that for establishing our own standard and we recognize, of course, the good will and the intelligence and capacity of the drafters of the bill; I am sure you have faced most of these problems and recognized—

Senator DONNELL. Some of us have explored them very deeply and thoroughly over a number of years.

Mrs. Wubnig, you would advocate, I take it, making it mandatory upon a State, municipality, or a political subdivision there to observe the same requirements as this bill imposes upon other employers; is that right?

Mrs. WUBNIG. I think in principle, and with recognition of Senator Ives' position in terms of workability.

Nonetheless, in principle we think it would be a wise and sound procedure to have all the organs, particularly of Government, which does set the example, and which acts as the governing body, to be subjected and to accept the principles of nondiscrimination in employment.

Senator DONNELL. Senator Ives.

Senator Ives. I think that it is diminishing this and if it is not, it should be. It is in the New York law, I know. I cannot tell you what part of this bill.

Senator DONNELL. This bill, as I see it, did not apply to every State, municipality, or subdivision—political subdivision.

Senator Ives. You cannot get down to the State angle very well.

Senator DONNELL. I was asking about the State or municipality or political subdivision, for instance, to make it concrete. Would you advocate that it should be obligatory upon the authorities of the State

of Maryland and of every other State to observe these same requirements that private employers are required to observe under the terms of the bill to observe?

Mrs. WUNNIG. Well, it seems to us that it would be sound and just to require the official bodies to accept the principles of the laws that are administered for the private groups.

Senator DONNELL. Of course, you would have then the situation in which the Federal Government might be called upon to impose penalties upon officials of the State governments; of that I am not sure; I have not thought that through. But you can obviously see the problems that immediately present themselves as between the States and the Federal Government.

Mrs. WUNNIG. I realize that and I realize that these problems have been explored by the gentlemen who drafted the legislation, but we are expressing the hope that those States will either through further Federal legislation or through their own legislation accept the principles of such a bill.

Senator DONNELL. Very well; proceed.

Mrs. WUNNIG. With reference to section 5, line 1, one of the serious forms of discrimination in employment is the refusal to grant the rewards earned by a worker by ability or seniority. We suggest that this line be amended to read "to refuse to hire or promote, to discharge * * *." There may be a question that it is implicit in the bill that promotion is part of the practices that are included, but it seems to us wise to include very specifically the fact that promotion is also part of the unfair practices in which discrimination should not be practiced.

In section 5, all and any attempts to determine the race, religion, or national origin of a job applicant should be spelled out as an unlawful employment practice, in order to clarify and define one of the most vicious methods of discrimination. The language of the New York law against discrimination, section 131, paragraph 3, covers this admirably:

It shall be an unfair employment practice for any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, or national origin, or any intent to make such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification.

We think it is particularly significant that the law exists in New York, that the section exists so that enforcement agencies know precisely what they can do for their investigation and that employers know precisely what prohibitions exist for them to abide by.

We urge that this be incorporated in S. 984, to assist in enforcement and to make clear to employers what specific prohibitions they are bound by.

Section 6 (g) says that the provisions for studying the problems of discrimination in employment and for cooperation of local advisory and conciliation councils in the process of education and fostering good will are excellent. We suggest, however, in addition to these activities that the Commission be directed to initiate educational programs designed for these same purposes as well as to support efforts undertaken

by interested groups. An indifferent community or one unaware of this act and its implications—that is, communities where education efforts are most needed—may be just those where educational efforts are not undertaken and where the Commission could suitably initiate programs with the advice and cooperation of local advisory councils.

Senator DONNELL. Pardon me, what I think you are driving at is more or less understood in this whole procedure in that section. I know that that has been carried on in the State of New York without any mandate in the law.

Mrs. WUBNIG. Well, it seemed to us significant.

Senator DONNELL. It would be a natural part of it, it would go with it. It is just as well when in the field of informal education, to limit it, as we are doing in this instance to this field of discrimination and employment, not to be too ironclad in the specifications which we put down, and allow greater elasticity there in the carrying out of the processes.

Mrs. WUBNIG. Well, it seemed to us that it might be useful to suggest in a positive sense that—

Senator IVES. The trouble in putting that in a positive sense is that it may be construed—that is where you are limited. If you do not make those suggestions, the field is open.

Mrs. WUBNIG. Frankly, I had not thought of it in those terms.

In section 11 (a) conspicuous posting of notices or provisions of this act is important not only in the establishment of an employer or of a labor organization, but even more so where a large part of hiring takes place—the employment agency. Evasions of the act become more difficult where job applicants are aware of their rights under this act. We strongly recommend, therefore, that line 1 be amended to include "Every employer, labor organization and employment agency shall post * * *."

The National League of Women Shoppers commends the sponsors of S. 984 for this wise and enlightened legislation. Our recommendations are brought forward for the consideration of this committee not as criticisms but as proposed revisions we feel would more firmly implement the purposes of the bill. The National League of Women Shoppers urges prompt and favorable action by your committee and urges that every effort be made to have this bill passed by both Houses of Congress. Now is the time for this great democracy of ours to reaffirm and give reality to the principles which we so nobly profess.

Senator DONNELL. Are there any questions, gentlemen? Senator Smith, I know you have not heard the testimony—

Senator SMITH. I have no questions.

Senator DONNELL. We appreciate very much your attendance, Mrs. Wubnig, and your giving us your testimony.

We thank you for coming.

Mr. Schottland.

STATEMENT OF COL. CHARLES I. SCHOTTLAND, NATIONAL EXECUTIVE DIRECTOR, JEWISH WAR VETERANS OF THE UNITED STATES

Senator DONNELL. Please state your name, address, and something of the organization for which you appear.

Mr. SCHOTTLAND. My name is Charles I. Schottland. I am national executive director of the Jewish War Veterans of the United States. My residence is New York City.

The Jewish War Veterans of the United States is the oldest national veterans' organization in this country next to the DAR, the Army-Navy Union. It was established in 1896 by Jewish veterans of the Civil War who fought in both the Army of the North and of the South. It now has about 600 posts similar to the other veterans' organizations all over the United States with approximately 100,000 members.

Senator DONNELL. I understand you are appearing here by virtue of resolutions passed by the national executive committee of your organization.

Mr. SCHOTTLAND. That is correct, sir.

Senator DONNELL. When were those resolutions passed?

Mr. SCHOTTLAND. We had two resolutions passed, one in March of 1947 and our policies committee, which is sort of an executive committee of our executive committee, passed approximately 2 months ago at a meeting in New York City.

Senator DONNELL. Have you ever lived in the South?

Mr. SCHOTTLAND. Yes, sir; I have lived for 2 years as a youth in Vicksburg, Miss., and for several months during the war I was stationed in Charlottesville, Va.

Senator DONNELL. What was your profession before you became national executive director of this organization?

Mr. SCHOTTLAND. Just prior to my entering the Army I was Assistant Chief to the Children's Bureau, Department of Labor, here in Washington; prior to that I was State relief administrator, State of California, which was my home practically all my life, having been appointed by the Governor, Frank Merriam; and prior to that I held a number of positions in the social welfare, public welfare, field.

Senator DONNELL. While we are on this particular phase of your experience, were you in California at the time when there was a referendum held on legislation or on a subject of this general type?

Mr. SCHOTTLAND. No, sir; that was held after I left California to assume my position as Assistant Chief of the Children's Bureau in 1941. That referendum was held subsequent to that.

Senator DONNELL. Very well; you may proceed with your testimony, Colonel.

Mr. SCHOTTLAND. In connection with Senate bill 984, I have the honor to represent the Jewish War Veterans of the United States of America which is the oldest veterans organization in the country next to the Grand Army of the Republic and the Army and Navy Union. It was established in 1896 by Jewish veterans of the Civil War who fought in the armies of both the North and the South. Today it has 600 posts all over the United States, with approximately 100,000 members.

I am authorized to present the views of the Jewish war veterans of the United States by virtue of resolutions passed by its national executive committee, and I appear before your honorable committee upon express direction of our national commander, Milton H. Richman, of Hartford, Conn.

I shall not repeat in this brief statement, arguments which have been presented to your committee by other witnesses with reference to various details of the bill, but desire to make a few comments from

the standpoint of a veteran—one of those 18,000,000 veterans of our last two wars who fought for our democratic way of life; one of those 600,000 Jewish veterans of World War II who returned leaving behind 13,000 Jewish dead with the dead of other Americans of all religious faiths.

In considering the implications of this bill, I ask your indulgence as I recall vividly a day in Normandy in July 1944, just a few weeks after D-day. As an officer attached to General Eisenhower's headquarters, I was going through Normandy when my jeep was forced to stop because of a traffic tie-up alongside a ditch where a group of GI's were eating their K rations. In the group of some 15 to 20, there were three Negro truck drivers. One soldier greeted my driver with an accent that left no doubt that he was from Brooklyn.

Senator DONNELL. How do you distinguish that type of accent?

Mr. SCHOTTLAND. It just comes from practice, sir.

Senator SMITH. I may say that I think I can recognize it, coming from New Jersey.

Senator IVES. I have not lived there but you would have to live there to really get it.

Mr. SCHOTTLAND. Some were obviously from the farms, if one could judge by their general appearance; others were city bred. Undoubtedly, in that small group were Protestant, Catholic, Jew—a real cross section of the youth of our land.

That is the way of war. These men—bound together in a common fight and a common danger that lay heavily on all American troops in France at that moment—were having a shared meal, in common discomfort and in a common recognition that they were fighting for a democratic United States without regard to their individual racial or religious backgrounds.

As soldiers, these men encountered no discrimination in their right to fight and die for democracy; as veterans, they are discovering that they are being denied equal opportunities to earn a living in that democracy by sheer accident of birth—because they were born of parents who were Catholics, Mexicans, Italians, Jews, Negroes, or other minority religious, racial, or national backgrounds.

Senator DONNELL. Colonel, right on that point, have you made any personal investigation to determine whether or not there is any considerable amount of discrimination?

Mr. SCHOTTLAND. Our organization has participated, with a number of other organizations in surveys that have been made, one of which has already been filed with this committee, surveys showing that there has been a large number of individual incidents in various cities throughout the country, discriminating against veterans because of their religion.

Senator DONNELL. Your profession before you became associated with the Jewish war veterans of the United States was what?

Mr. SCHOTTLAND. I was in general welfare work.

Senator DONNELL. I know you were here with the Bureau in Washington, but had you been a lawyer or teacher?

Mr. SCHOTTLAND. I have been a social worker.

Senator DONNELL. A social worker all through your experience?

Mr. SCHOTTLAND. That is correct.

Gentlemen, when you add together the number of persons in the United States who are discriminated against in employment all over

the country by virtue of their race, religion, or national origin, you have a staggering total which represents a substantial percentage of the American population. A number of incidents have come to our attention, where Jewish veterans with outstanding military records have been frankly and openly denied equal opportunities for employment because of their religion and without reference to their qualifications for the job.

Senator ELLENDER. Have you any specific cases?

Mr. SCHOTTLAND. Yes, sir; some of them have already been filed with your committee. A study was undertaken by a group of organizations and I have a number of cases which I could present.

Senator ELLENDER. Where did they occur?

In what State?

Mr. SCHOTTLAND. They have occurred in any number of States. We have some cases from Philadelphia, from New York, from Chicago, Los Angeles.

Senator ELLENDER. Those States might need laws of that kind.

Mr. SCHOTTLAND. It is our experience that almost every State discriminates against individual employees, and almost every State may discriminate against one or another religious or racial group.

Senator ELLENDER. To what extent have you found discrimination against the Jewish race in New York State?

Mr. SCHOTTLAND. We have found considerable discrimination in New York State prior to the passage of the FEPC bill.

Senator Ives. That is not the FEPC bill; that is the law against discrimination.

Mr. SCHOTTLAND. Pardon me, Senator; and although this has made such discrimination disappear very rapidly it is still relatively new and there is still discrimination in New York to some extent.

Senator DONNELL. But greatly diminished; is it not?

Mr. SCHOTTLAND. Considerably diminished. As a matter of fact, a few statistics would indicate it.

Senator ELLENDER. Can you give us some specific employers who refused to employ Jews?

Mr. SCHOTTLAND. I do not have the specific names of the firms as a result of this study, but they can be furnished to you upon request. I have the incidents here and the type of firms they were, but we can furnish the committee the names by request.

Senator ELLENDER. What was the nature of employment in which there was discrimination?

Mr. SCHOTTLAND. Here is a case of a veteran in Philadelphia who applied for office work in a refining company.

Senator ELLENDER. In what?

Mr. SCHOTTLAND. In an oil-refining company. He took an examination which was given with three other boys; all of them were Christians. He made the highest grade. It was not a job requiring any other than office skills. The others were employed and he was not.

Senator ELLENDER. How do you know there was discrimination?

Mr. SCHOTTLAND. Because the question of religion was asked. There was no particular basis for just ordinary office work other than the test that was given.

Senator ELLENDER. Did you or anybody else consult the employer to find out whether or not there was discrimination by the employer?

Mr. SCHOTTLAND. I did not in the particular case. I was not involved in this particular study.

Senator ELLENDER. Have you any specific cases in which the employer was asked the question as to whether or not he practiced discrimination and as to whether or not he gave some reasons for such practice if he did so practice?

Mr. SCHOTTLAND. I did not in the particular case. I do not have any personal cases.

Senator ELLENDER. None at all. Well, I will ask you: Were you disappointed in the small number of cases that were filed with the board in New York over 2 years since the law has been placed on the statute books?

Mr. SCHOTTLAND. On the contrary, I was very much gratified by it.

Senator ELLENDER. Did you expect a larger number, though, in the light of your past experience?

Mr. SCHOTTLAND. No, sir; because my experience has been in traveling all over the country that the American people are a law-abiding people and if you put a law on the statute books, by and large most people obey that law.

Senator DONNELL. Are you familiar with the situation prevailing over in Rochester as testified to by Mr. Salert, at the Eastman Kodak Co.?

Mr. SCHOTTLAND. I am not familiar with it, sir. I heard considerable discussion about it at the time it came up.

Senator DONNELL. You have not made any personal investigation about it at all to ascertain what the facts are?

Mr. SCHOTTLAND. No, sir.

Senator ELLENDER. Have you a record of the percentage of Jewish veterans that have been discriminated against since the war?

Mr. SCHOTTLAND. No, sir; we have not engaged in any type of study for that type of figure.

Senator ELLENDER. How many cases have you, actual cases of discrimination among the Jewish veterans?

Mr. SCHOTTLAND. In our national office we must have received communications with reference to some 50 or 60 cases.

Senator ELLENDER. Fifty or sixty; that is all?

Mr. SCHOTTLAND. We have made no effort to ferret them all out.

Senator ELLENDER. All over the United States?

Mr. SCHOTTLAND. Yes.

Senator DONNELL. Over how long a period?

Mr. SCHOTTLAND. Within the past few months they have come to our attention.

Senator ELLENDER. Well, how about the veterans organized since 1896—have you received any other letters or complaints of discrimination as to war veterans of World War I?

Mr. SCHOTTLAND. Very definitely, sir; our files over a period of years would reveal that our organization has over a number of years engaged in activities to combat discrimination in employment both by talking to individual employers who have discriminated and in following up complaints that have been made to us on the basis of such discrimination.

Senator ELLENDER. What success have you had in dispelling discrimination?

Mr. SCHOTTLAND. I do not know what the percentage would be, sir. Occasionally our efforts have been successful. Sometimes they are not.

Senator ELLENDER. Have you a record of the percentage of the members that have applied for it?

Mr. SCHOTTLAND. No, sir; we have not.

Senator DONNELL. You spoke of having talked with employers. Have you personally talked with employers who have been alleged to have discriminated against Jewish veterans?

Mr. SCHOTTLAND. No, sir; I have not.

Senator DONNELL. Is there anyone in your organization that has done that?

Mr. SCHOTTLAND. Yes, sir.

Senator DONNELL. Talked with employers and got their side of it?

Mr. SCHOTTLAND. Yes, sir.

Senator DONNELL. Do you know, or has it been reported to you what the employers say as to whether or not they have refused employment on the ground that the individuals were Jewish or whether they assert some other reason for failure to employ?

Mr. SCHOTTLAND. I think that would depend on the individual employers; I think although there was denial of discrimination in some cases, in others they were frank to admit they felt they could employ anybody they pleased.

Senator DONNELL. On the one hand you have a man who honestly believes he has been rejected because of his race. On the other hand, the employer may have his side of it. He may have a personality that for some reason is not fitted to that position. You cannot very well judge of the merits of these disputes on an ex parte basis, just one side, can you?

Mr. SCHOTTLAND. No, sir; and we would never do that. If we would bring a specific case, it would be a type of case where a person was recommended for a position in a certain company by the commander of the AMVETS. This veteran was told his qualifications were satisfactory but there was no opening. However, when the commander of the AMVETS called this company, the commander who was not Jewish was told that they could not use this individual veteran simply because he was Jewish.

Senator DONNELL. Do you know of some cases of that kind, of your own knowledge?

Mr. SCHOTTLAND. Yes, sir; I am quoting an exact case.

Senator DONNELL. Did the commander of the AMVETS tell you that?

Mr. SCHOTTLAND. This is one of the cases that was verified in the study that was filed with your committee previously and was verified by the commander of the AMVETS.

Senator DONNELL. All right.

Senator ELLENDER. What prompted the creation of a separate Jewish War Veterans Association?

Mr. SCHOTTLAND. There were a number of factors, sir. First, a number of the veterans of the Civil War—

Senator ELLENDER. How many?

Mr. SCHOTTLAND. I do not know how many Jewish veterans at the moment. I do not have the figures before me of those who participated in the Civil War, but approximately 100 formed the organization originally. They got together because they wanted to have an associa-

tion whereby they could continue their comradeship of Army days and because they thought that they could promote Americanism, principles, and patriotic activities through organization of such a veteran's group.

Senator ELLENDER. But you had such organizations both in the North and in the South of those who fought during the Civil War, did you not?

Mr. SCHOTTLAND. No, sir; there was no Jewish veterans' organization.

Senator ELLENDER. I know that, but I mean as Americans, not as Jews, but as Americans, an American association.

Mr. SCHOTTLAND. Yes, sir; there were.

Senator ELLENDER. Well, what prompted you now to continue such an organization?

Mr. SCHOTTLAND. We feel that by associating together a number of Jewish veterans who are veterans of the Jewish faith, that if the Catholic war veterans or other religious groups—

Senator ELLENDER. But you do not have them separate that way. You do not have them because they are Catholics?

Mr. SCHOTTLAND. Yes, sir; there is a Catholic veterans' organization which is a very large organization.

Senator ELLENDER. Where is that?

Mr. SCHOTTLAND. Practically in every State.

Senator ELLENDER. Do you have Protestants?

Mr. SCHOTTLAND. There have been several smaller Protestant organizations that have started and there are still a number of them extant.

Senator ELLENDER. Do you not think such an organization accentuates your difficulties?

Mr. SCHOTTLAND. I do not know, sir, what you mean by difficulties.

Senator ELLENDER. You are complaining now of being discriminated against and all of that and here you set yourselves out as a group up here—all Americans. Is it that you were refused membership in other organizations that prompted you to organize?

Mr. SCHOTTLAND. On the contrary, practically all of our members are members of one of the large veterans' organizations.

Senator ELLENDER. And you have this as a separate organization?

Mr. SCHOTTLAND. Yes, sir; we have it because we feel there are certain specific things in which we might be interested as Jewish veterans.

Senator ELLENDER. What, for instance?

Mr. SCHOTTLAND. We might be interested in the promotion of special Americanism activities in the synagogues, in our Jewish community organizations; we would be interested in such problems as discrimination against Jews in various aspects of employment, and other aspects of our general life. We would be interested in specific brotherhood programs in which we would participate as Jews and as veterans. We would be interested in representing the Jewish community celebrations and activities—those Jews who fought in the armed forces.

Senator DONNELL. Proceed, Mr. Schottland.

Mr. SCHOTTLAND. This bill which you gentlemen are now considering has significance beyond the borders of our country. During the war, I was in intimate contact with Allied liaison officers of 14 different nationalities attached to our headquarters.

Senator DONNELL. Colonel, may I interrupt you to say that the bell indicates it is 15 minutes before the Senate convenes. Promptly at 12 o'clock we shall be in recess until the Senate shall have granted us permission to resume. We anticipate such permission will be granted.

But that does not mean we will not complete your testimony if we have not completed it by that time.

Mr. SCHOTTLAND. During the war, I was in intimate contact with Allied liaison officers of 14 nationalities attached to our headquarters who frequently asked their American colleagues why we discriminated against Negroes, Mexicans, Jews, and other racial or religious groups in so many aspects of our economic life. Nor was it pleasant to listen, as I did one day in France, to the Nazi radio exploit our discriminatory practices and exhort our Negro truck drivers to sabotage our fast supply program along the Red Ball highways. To these Nazi plans, all Americans turned a deaf ear, but many had hearts full of hope that never again would our enemies find such a vulnerable spot in our democratic armor.

We have an opportunity, here, gentlemen, to tell the world that we are putting into practice in our own country those democratic ideals which we are attempting to have other countries follow in the present world struggle to preserve that civilization in which we all believe.

The Jewish War Veterans of the United States is firm in the belief that this Congress can provide the world with a conclusive and unassailable demonstration of the national faith in these democratic principles through passage of an FEPC Act which will stand as the most telling and effective refutation to the propaganda of all who would impugn our way of life.

As a veterans' organization, we see such legislation as worthy and legitimate payment of a promissory note to millions of our own veterans who took up arms in a conviction that the terrible equality of war would one day be matched by equal opportunities in peace.

Gentlemen, the privilege—yes, the responsibility—of eliminating many of the evils of discrimination in employment is entirely within your power. Failure to take affirmative action on this fundamental democratic principle will be, unfortunately, a tacit endorsement of the existing undemocratic and un-American practices which S. 984 seeks to correct.

The Jewish War Veterans of the United States strongly urges your honorable committee to do everything possible to speed the passage of this legislation.

Senator DONNELL. Does any member of the committee desire to interrogate Colonel Schottland?

The next witness is Mr. Paul Williams, president, Southern Regional Council, Richmond, Va.

(Mr. Schottland submitted the following brief:)

TESTIMONY OF COL. CHARLES I. SCHOTTLAND, NATIONAL EXECUTIVE DIRECTOR, JEWISH WAR VETERANS OF THE UNITED STATES, BEFORE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, FRIDAY, JUNE 20, WASHINGTON, D. C.

In connection with Senate bill 984, I have the honor to represent the Jewish War Veterans of the United States of America, which is the oldest veterans' organization in the country next to the Grand Army of the Republic and the Army and Navy Union. It was established in 1898 by Jewish veterans of the Civil War who fought in the armies of both the North and the South. Today it has 600 posts all over the United States, with approximately 100,000 members.

I am authorized to present the views of the Jewish War Veterans of the United States by virtue of resolutions passed by its national executive committee, and I appear before your honorable committee upon express direction of our national commander, Milton H. Richman, of Hartford, Conn.

I shall not repeat, in this brief statement, arguments which have been presented to your committee by other witnesses with reference to various details of the bill, but desire to make a few comments from the standpoint of a veteran—one of those 18,000,000 veterans of our last two wars who fought for our democratic way of life, one of those 800,000 Jewish veterans of World War II who returned leaving behind 18,000 Jewish dead with the dead of other Americans of all religious faiths.

In considering the implications of this bill, I ask your indulgence as I recall vividly a day in Normandy in July 1944, just a few weeks after D-day. As an officer attached to General Eisenhower's headquarters, I was going through Normandy when my jeep was forced to stop because of a traffic tie-up alongside a ditch where a group of GIs were eating their K rations. In the group of some 15 to 20, there were 3 Negro truck drivers. One soldier greeted my driver with an accent that left no doubt that he was from Brooklyn. Some were obviously from the farm, if one could judge by their general appearance; others were city bred. Undoubtedly, in that small group were Protestant, Catholic, Jew—a real cross section of the youth of our land.

That is the way of war. These men, bound together in a common fight and a common danger that lay heavily on all American troops in France at that moment, were having a shared meal in common discomfort and in a common recognition that they were fighting for a democratic United States without regard to their individual racial or religious backgrounds.

As soldiers, these men encountered no discrimination in their right to fight and die for democracy; as veterans, they are discovering that they are being denied equal opportunities to earn a living in that democracy by sheer accident of birth—because they were born to parents who were Catholics, Mexicans, Italians, Jews, Negroes, or other minority religious, racial, or national backgrounds.

Gentlemen, when you add together the number of persons in the United States who are discriminated against in employment all over the country by virtue of their race, religion, or national origin, you have a staggering total which represents a substantial percentage of the American population. A number of incidents have come to our attention where Jewish veterans with outstanding military records have been frankly and openly denied equal opportunities for employment because of their religion and without reference to their qualifications for the job.

This bill which you gentlemen are now considering has significance beyond the borders of our country. During the war, I was in intimate contact with Allied liaison officers of 14 different nationalities attached to our headquarters who frequently asked their American colleagues why we discriminated against Negroes, Mexicans, Jews, and other racial or religious groups in so many aspects of our economic life. Nor was it pleasant to listen, as I did one day in France, to the Nazi radio exploit our discriminatory practices and exhort our Negro truck drivers to sabotage our fast supply program along the Red Ball highways. To these Nazi pleas all Americans turned a deaf ear, but many had hearts full of hope that never again would our enemies find such a vulnerable spot in our democratic armor.

We have an opportunity, here, gentlemen, to tell the world that we are putting into practice in our own country those democratic ideals which we are attempting to have other countries follow in the present world struggle to preserve that civilization in which we all believe.

The Jewish War Veterans of the United States is firm in the belief that this Congress can provide the world with a conclusive and unassailable demonstration of the national faith in these democratic principles through passage of an FEPC Act which will stand as the most telling and effective refutation of the propaganda of all who would impugn our way of life.

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Gentlemen, the privilege—yes, the responsibility—of eliminating many of the evils of discrimination in employment is entirely within your power. Failure to take affirmative action on this fundamental democratic principle will be, unfortunately, a tacit endorsement of the existing undemocratic and un-American practices which S. 904 seeks to correct.

The Jewish War Veterans of the United States strongly urges your honorable committee to do everything possible to speed the passage of this legislation.

STATEMENT OF PAUL D. WILLIAMS, PRESIDENT, SOUTHERN REGIONAL COUNCIL, RICHMOND, VA.

Senator DONNELL. Mr. Williams, you heard the announcement in regard to 12 o'clock. Your testimony will not be terminated if you are not through by that time.

Please state your name, address, and educational background and something as to the organization in whose behalf you appear.

Mr. WILLIAMS. My name is Paul D. Williams. I was born in Richmond, Va., and have lived there all my life. I am serving a second term as president of the Southern Regional Council, succeeding Dr. Howard W. Odum, of the University of North Carolina. The Southern Regional Council is a nonprofit, nonpolitical organization which has for its purpose the advancement of opportunities of all peoples of the South. While I speak at this time as an individual, I am confident that what I have to say represents the majority viewpoint of my board of directors and entire membership.

Senator DONNELL. The board of directors has not, however, authorized you to speak in its behalf?

Mr. WILLIAMS. No; there are 60 members of the board, and when I was asked to testify I did not have time to clear with them, and that is the reason I prefer to speak as an individual.

Senator DONNELL. Yes, sir. Does your board of directors have frequent meetings, Mr. Williams?

Mr. WILLIAMS. We meet once a year and then in quarterly meetings through an executive committee the workings of the organization carry on.

Senator DONNELL. Is there a large body, a larger body than the board of directors?

Mr. WILLIAMS. Yes, sir; there is a membership at large—\$2 membership.

Senator DONNELL. And does that membership have some type of convention at which delegates appear?

Mr. WILLIAMS. They meet annually, too.

Senator DONNELL. When did the most recent meeting of that type occur?

Mr. WILLIAMS. Last November.

Senator DONNELL. Has either the membership in its convention or the board of directors at any time passed any resolution on the subject of discrimination in employment?

Mr. WILLIAMS. We have gone on record as in favor of a fair practices law; no particular law, but fair practices.

Senator DONNELL. You have stated that the Southern Regional Council is a nonprofit, nonpolitical organization; how large a membership does it have?

Mr. WILLIAMS. We have slightly over 2,000 paid members.

Senator DONNELL. Slightly over 2,000.

Mr. WILLIAMS. Yes, sir.

Senator DONNELL. In how many States is your membership?

Mr. WILLIAMS. In the 13 States that are generally considered the South. I might say from Virginia to Arkansas to Texas to Florida.

Senator DONNELL. Does the membership of this organization consist of white people and Negroes also or is it confined exclusively to members of one race?

Mr. WILLIAMS. All Americans.

Senator DONNELL. All Americans are eligible to membership?

Mr. WILLIAMS. To membership and to office and to the paid personnel. The officers serve voluntarily; we have a paid personnel in Atlanta, Ga., and this personnel is composed of all competent people and they are hired and upgraded regardless of their religion or creed. They work side by side every day.

Senator DONNELL. What proportion of your membership would you say is white and what proportion colored?

Mr. WILLIAMS. I would say about two-thirds white and about one-third is colored.

Senator DONNELL. Very well, Mr. Williams, will you proceed?

Senator ELLENDER. What is your occupation, Mr. Williams?

Mr. WILLIAMS. I am in the publishing business. I am editor for a textbook publishing firm.

Senator DONNELL. What is the name of that firm?

Mr. WILLIAMS. Mensard Bush & Co., of Chicago.

Senator DONNELL. What type of textbooks does it publish?

Mr. WILLIAMS. Elementary and high school.

Senator DONNELL. Used in the South?

Mr. WILLIAMS. Used nationally.

Senator DONNELL. How large an organization does it have?

Mr. WILLIAMS. I do not know what you mean by that.

Senator DONNELL. How many people does it employ?

Mr. WILLIAMS. We have about 10 representatives on the road and we have about 10 in the office.

Senator DONNELL. So there are about 20 persons in the organization.

Mr. WILLIAMS. Yes, sir.

Senator DONNELL. A small publishing house?

Mr. WILLIAMS. Yes, sir.

Senator DONNELL. Do you do the actual publishing or do you have that done by some printing concern?

Mr. WILLIAMS. As in the case of even most of these large concerns, like MacMillan, they job the work out to other concerns like Cuneo of Chicago and Donnelly and others who are specialists in the publishing of books.

Senator DONNELL. Very well, Mr. Williams, proceed.

Mr. WILLIAMS. The Southern Regional Council puts into daily practice the basic principles of the FEPC as to the hiring and upgrading of individuals according to their qualification and not on the basis of race, color, creed, or national origin. The Southern Regional Council is predominantly Protestant yet its president is a Catholic, its associate director and its executive committee chairman are Negroes and its general counsel is a Jew.

A fair employment practice law is essential as a demonstration of social justice. It is implied in the fundamentals of Christianity which proclaims the dignity and worth of each individual. Christianity is a sham if it preaches one thing in doctrine and another in practice. If Christianity did this it would frustrate the very thing it sets out to accomplish; namely, that we are all children of God, destined for

eternal life and that each individual should seek his highest fulfillment as a gentleman of integrity. In so doing he most resembles his Creator.

A fair practice law is necessary to set our record straight according to the spirit of American democracy as enunciated in the Declaration of Independence. "All men are created equal; they are endowed by their Creator with (the inalienable right) to life, liberty, and the pursuit of happiness." The right to work and to receive equal pay for equal services is inherent in these phrases of our democratic faith. We cannot expect first-class citizenry and only offer second- and third-class opportunity.

The South is at the threshold of a new industrialization that can bring the South to an economic prosperity on a par with the rest of our Nation. This will mean much to the South. It will mean much to our entire Nation. But for this new era to come to pass the South must utilize all her human and natural resources and not waste them as has been so tragically true in the past. There are stirrings in the South that are significant. Many fine groups and individuals are striving hard to rid the South of old fancies and ancient prejudices. We no longer are proud of antiquated mansions that should be relics and museum pieces rather than places of abode. We no longer cling to the false illusions and hug outworn dreams. We look to the future when all men can walk in dignity, each striving to reach his greatest stature as a human being.

I do not look upon S. 984 as an idealistic bill and impossible of achievement. Many of its items are similar in design and approach to State laws on fair employment that are actually working successfully, notably the one in New York State.

Suddenly, the world has moved in on us. We see clearly as a result of World War II and its aftermath that we are one people living in one world. At this hour America is looked upon as the hope of decent living among nations everywhere in the world. To pursue our role in world affairs with honesty and vigor we must clean house at home. The words of old John Donne, slightly paraphrased, seem especially fresh and meaningful today:

No man is an island to himself alone
He is part of the mainland
If a wave washes my shore I am the lesser
Every man's death diminishes me
Because I am involved in all humanity.
And, therefore, never send to find for whom the bell tolls
It tolls for thee!

Senator DONNELL. Mr. Williams, is the organization for which Mr. Clarence Barbour appeared here yesterday affiliated with the Southern Regional Council?

Mr. WILLIAMS. I do not know Mr. Clarence Barbour.

Senator DONNELL. As I remember, he referred to you in his testimony yesterday.

I do not know whether you were present or not.

I think it was Mr. Barbour. You are not associated in any way with Students For Democratic Action at the University of North Carolina?

Mr. WILLIAMS. No, sir; we are not at all related.

Senator DONNELL. Have you any questions of Mr. Williams?

Senator ELLENDER. Mr. Williams, what is the position of your organization on segregation in the South?

Mr. WILLIAMS. Well, the best answer I can say is to outline our daily practice; we work in a common office; we have some Negro stenographers, and some white stenographers; we have a paid executive director who receives \$7,500 a year. We have a Negro associate director who receives \$6,000 a year. We could obtain the services of an adequate Negro at much less than that. But we think as an earnest application of what we believe in that there should be only the difference that would normally take place, perhaps, in a university between a full professor and an assistant professor.

We utilize the same toilet facilities and this takes place in Atlanta, Ga. When we meet annually, we meet as individuals; when the time comes for lunch, we do not run in different directions; we sit down to a common table and eat as gentlemen.

Senator ELLENDER. So that your conference, then, you would say, advocates or believes in nonsegregation.

Mr. WILLIAMS. Yes; I think you could draw that conclusion.

Senator ELLENDER. Do you preach it in the South?

Mr. WILLIAMS. We do not preach that that is the way to do things. We do not think—

Senator ELLENDER. I am just asking if you do.

Mr. WILLIAMS. We do not like to preach. We go ahead and set the example.

Senator ELLENDER. But you have not taken a definite position against segregation in the South?

Mr. WILLIAMS. Not that I know of.

Senator ELLENDER. Except as you have just indicated.

Mr. WILLIAMS. Yes.

Senator ELLENDER. That is all.

Senator SMITH. Mr. Chairman, I have one question I would like to ask. I gather from your description of your organization that you are really set up to fight this discrimination. Is that your main purpose, or what is your main purpose?

Mr. WILLIAMS. Our idea is that we want to utilize all the manpower in the South and all the natural advantages that the South has and not waste them. We are not an interracial organization. That is, we emphasize everything, the soil, the climate, the displacement that is coming through the revision of the cotton industry in the South. We are interested in health and education. We believe in taking the racial thing in stride as one of the items of culture in the South.

Senator DONNELL. The committee will be in recess for a few moments. Will you be kind enough to wait for just a few moments, Mr. Williams?

(At this point in the hearing a short recess was taken.)

Senator DONNELL. The committee will be again in session.

Senator IVES. I have just one question I would like to ask Mr. Williams.

Do you think, sir, this bill, if enacted, would work satisfactorily in the South?

Mr. WILLIAMS. Yes; I do.

Senator IVES. Do you think that the provisions in the bill are not such as to cause difficulties which as you will foresee might arise among those who might oppose it?

Mr. WILLIAMS. I think it can work in the South and what I like about the bill is its emphasis on education and persuasion and conciliation.

Senator DONNELL. You notice it also has enforcement provisions, Mr. Williams.

Mr. WILLIAMS. I know that, but that is necessary. It has to have sanction and enforcement, but I do like the emphasis on education and conciliatory measures as you operate in the State of New York.

Senator IVES. The only thing that has arisen here, and it is an honest difference of opinion, one that can be easily understood is as to whether by having enacted on a national basis legislation of this type with its mandatory enforcement features, we would be taking a step in the South, to be exact, which might actually impede the very thing we are trying to do. That is what has come up. I am not expressing my personal opinion. I am expressing the honest difference where the difference lies, the difference exists.

Mr. WILLIAMS. I think that is a sincere and legitimate viewpoint for some people to have. I think that in the South there are a great body of people who want to do things just as progressively and just as decently as people in New York State or any other State, and I would not yield to say that something could work in New York or Massachusetts that could not work in Virginia or Louisiana.

Senator IVES. You do not think that the fact that you have such a large colored population in the South would operate to the disadvantage of the working of this type of legislation?

Mr. WILLIAMS. Well, I would say that the administration of it would perhaps be a more difficult thing and that therefore in the selection of personnel for the administration you would have to give a great deal of consideration to that.

Senator IVES. You think wisely administered, administered with discretion, that this would work satisfactorily as it stands in the South?

Mr. WILLIAMS. I do, sir.

Senator IVES. Thank you, sir.

Senator DONNELL. Are there any further questions?

Mr. WILLIAMS. I wonder if you could remain just a few minutes and we will proceed with another witness, but if Senator Smith should desire to resume his interrogation—if you could stay just 10 minutes or so—

Mr. WILLIAMS. I will be glad to.

Senator DONNELL. Thank you.

We will hear now from Robert Latham, international vice president, Food, Tobacco, Agricultural, and Allied Workers Union of America, CIO.

STATEMENT OF ROBERT LATHAM, INTERNATIONAL VICE PRESIDENT, FOOD, TOBACCO, AGRICULTURAL, AND ALLIED WORKERS UNION OF AMERICA, CIO

Senator DONNELL. Please state your name, sir, and your address.

Mr. LATHAM. My name is Robert Latham.

Senator DONNELL. Where is your home?

Mr. LATHAM. South Winston-Salem, N. C.

Senator DONNELL. A native of North Carolina?

Mr. LATHAM. No.

Senator DONNELL. Where were you born?

Mr. LATHAM. South Carolina.

Senator DONNELL. And how long have you lived in North Carolina?

Mr. LATHAM. About 20 years.

Senator DONNELL. What is your educational background?

Mr. LATHAM. High school.

Senator DONNELL. And what has been your business?

Mr. LATHAM. Employed as factory worker.

Senator DONNELL. Employed as factory worker?

Mr. LATHAM. Yes.

Senator DONNELL. Now, I have you listed here as "vice president." Are you vice president of some organization?

Mr. LATHAM. International vice president of Food, Tobacco, Agricultural, and Allied Workers Union, CIO.

Senator DONNELL. You are international vice president?

Mr. LATHAM. That is right.

Senator DONNELL. What factory have you worked in?

Mr. LATHAM. Export Leaf Tobacco Co.

Senator DONNELL. Is that in Winston-Salem?

Mr. LATHAM. Yes, sir.

Senator DONNELL. And how long have you been in that factory?

Mr. LATHAM. Eighteen years.

Senator DONNELL. This organization of which you are the vice president is one of the CIO organizations, is that correct?

Mr. LATHAM. That is correct.

Senator DONNELL. Have you had occasion to be in New York at any time since the bill there has passed? Or, if you have not been there, have you made any investigation of its success or lack of success?

Mr. LATHAM. No, sir; I have not.

Senator DONNELL. But you are prepared to testify today as to this bill, S. 984?

Mr. LATHAM. Yes, sir.

Senator DONNELL. You may proceed.

Mr. LATHAM. My name is Robert Latham, and I am international vice president of the Food, Tobacco, Agricultural, and Allied Workers Union, CIO. Our union stands absolutely opposed to every form of discrimination based on race, creed, color, national origin, or political belief.

The fact that I am an elected vice president of our international union is proof of this statement. Anyone in FTA-CIO can run for office and be elected, solely on his or her merits.

I wish Senators could have been with us at our convention in January this year.

Senator DONNELL. Where was that held?

Mr. LATHAM. Held in Philadelphia.

Senator DONNELL. How large an attendance was there?

Mr. LATHAM. A delegation of about 200. Roughly guessing, about 200.

Senator DONNELL. Roughly, 200 men at the convention?

Mr. LATHAM. That is right.

Senator DONNELL. And from how many States?

Mr. LATHAM. From every State—just about every State in the Union.

Senator DONNELL. Very well, go ahead.

Mr. LATHAM. They would have seen white and Negro workers, Filipinos, Spanish-Americans, all meeting and working together for one common aim—the welfare of their fellow workers.

It is often said by the people who oppose fair employment that the passage of a law such as S. 984 and the setting up of a permanent Federal Fair Employment Practice Commission would be unworkable. You cannot, these people argue, make people work together if they do not want to work together.

I will agree that it is hard to make people do something they do not want to do, although the sponsors of the Taft-Hartley antiunion bill do not seem to think so. But what does a permanent FEPC do?

Does it force people to work together when they do not want to? Of course it does not.

All that a permanent Federal FEPC would do is to create equal opportunity to hold a job, without being struck out first on grounds of race, creed, or national origin.

This is all that the members of any minority ask for: Equal opportunity. Given equal opportunity, they will stand on their own feet in doing whatever job is necessary. Minorities ask no special privilege. All they ask is the same rights that free men elsewhere enjoy.

It sometimes seems very hard to get those rights in this country, if you happen to be a Negro or foreign-born or a Jew, even though everyone knows the United States is a democracy.

But I would remind the Senators of one thing—the working people of this country are more and more learning how to work and fight together to defend their rights and freedoms.

They are uniting, regardless of race, color, creed, or political belief, to uphold their rights as Americans and to fight for a better standard of living for themselves and their families.

The dismal prophets who say it cannot be done are being proved wrong every day. Workers of different races and different origins are coming together as never before, if only because the attack on all workers is so severe.

The recently settled strike of 10,000 white and Negro workers at the R. J. Reynolds Tobacco Co., in Winston-Salem, N. C., is one of the best recent examples I know of people working together for a common aim.

The aim was to secure a living wage from the Reynolds Co., which had refused to offer more than a 5½-cents-an-hour wage increase to the members of the FTA-CIO in their plant.

The strike lasted 38 days. During the strike a picket line was kept going 24 hours a day around the Reynolds Co.'s 73 plant gates. White and Negro workers picketed together, met together, planned strategy together, negotiated together with the company until they won their strike.

At no time was there the slightest incident on the picket line or in the union halls that reflected racial tension. No arrests were made, although the Winston-Salem police were concentrated solely on the picket lines, leaving the rest of the city unprotected.

In fact, the chief of police of Winston-Salem publicly praised the strikers, both Negro and white, for their orderliness and discipline. The local newspaper, which did everything in its power to try to

break the strike, had to admit that there was no violence of any kind during the 38 days.

It was not for lack of trying. The company and the local newspaper did their best to promote racial incidents.

Senator DONNELL. What do you mean by that—the company and the local newspaper did their best to promote racial incidents?

Mr. LATHAM. Well, the company had quite a bit of white school children—carried them into the plants through the picket lines; and the newspapers carried all type of stories which tried to stir up racial issues.

Senator DONNELL. Pardon me, Mr. Latham, if I may interrupt you a moment.

Senator Smith has returned. Senator, I asked Mr. Williams to remain a moment, since you asked him a question, and I thought probably you wanted to interrogate him further. He is waiting here now, and Mr. Latham will be kind enough to wait for just a very few minutes.

STATEMENT OF PAUL D. WILLIAMS—Resumed

Senator SMITH. I just wanted to develop further the line I opened with you, Mr. Williams. I thought from your testimony that as you had primarily organized for the purpose of eliminating discrimination in this country, that was the purpose. I am entirely for it, but I wanted to see just what your scope was. Now I gather you are speaking for maximum production, maximum idea of unity in this country, maximum idea of everybody working together, and you believe that discrimination is one of the elements in that splendid, broad movement.

Mr. WILLIAMS. We think we ought to take the spotlight off race and put it on resource.

Senator SMITH. I agree with you. You have a difficult situation in the South. We are aware of that, and we are not minimizing it at all. We are trying to deal with it. Do you find in your organization—I suppose you are trying to get members where you can get members. Do you find any resistance in the South?

Mr. WILLIAMS. We are not out for large, wholesale membership.

Senator SMITH. Do you find resistance in the Southern States to the kind of project you are working on, or do you find people relatively interested in the movement along with you?

Mr. WILLIAMS. I would say that the more responsible people are very interested in what we are doing.

That does not mean to say that we do not have resistance. I might tell you some of the names of our members of the board of directors and officers. That might give you an idea of the caliber of those who believe in what we are doing.

Senator SMITH. I think that would be interesting for the record.

Mr. WILLIAMS. Mr. Stabney, editor of the Richmond Times; Mr. P. W. Young, editor of a Norfolk paper; Mr. Wilson Brown, vice president of the State Planters Bank, Richmond; Dr. Howard Odum, of the University of North Carolina; Dr. Guy Johnson, University of North Carolina; Edgar Stern, cotton industrialist of New Orleans; Raymond Paddy, chancellor of the university system of greater universities of Georgia; Dr. Clement, president of Atlanta University.

Senator SMITH. Is my friend Frank Graham among them?

Mr. WILLIAMS. He is my friend, too, but he is not on our board of directors. But that does not mean that he is not interested. He has an interest in enough other things already.

Senator SMITH. Is the center of gravity in your work mostly in Virginia or North Carolina or do you go into the deep South, too?

Mr. WILLIAMS. We go through the whole 13 States.

In some States we have a very lively State division. In other States we do not flourish too well. That is one of our main problems, to have the regional organization to have State counterparts to do on a State-wide basis what we try to disseminate from the regional headquarters.

Senator SMITH. Just one more thing I would like to ask you about.

Mr. WILLIAMS. In Florida, for example, we have a very flourishing division.

Senator SMITH. With other witnesses, I have raised this question: I am trying to find the most practical basis to get results and without unduly stirring up antagonism, and therefore I have asked previous witnesses the question whether—in their particular areas—whether South, or wherever it may be, this bill would be likely to be carried through and the provisions observed if we should stop after getting through the Commission investigation and the order by the Commission to cease and desist, and so forth, and not put in the legal sanction. I am wondering whether the legal sanctions are a red rag that would cause opposition just because the arm of the law comes in and tries to settle it, rather than just dealing with it on an education and conciliation basis.

I am trying to exhaust this thing in our discussions here, and I would like to have your judgment.

Mr. WILLIAMS. I have heard a lot of people, and I have read editorials that way. Frankly, I think that if we did, that would defeat the very purpose of the whole thing. You would cause certain turmoil and certain dislocation, and so on. People would go from one State to another State to benefit from the law, and the South has lost 3,000,000 citizens and many good Negro citizens.

Senator SMITH. You think in the South that there are legal sanctions, or that these legal sanctions would not be a stumbling block there?

Mr. WILLIAMS. I think if it is the law you are going to have to follow through. You are going to appeal to their reason. You are going to have an educational program through it all; and, in the final analysis, if they do not comply, they have to suffer the consequences.

Now, I understand that in New York State, even though they do have those punitive provisions, that there have been none or very few jail sentences.

Senator IVES. We have not even had a cease-and-desist order there.

Mr. WILLIAMS. That is the practical answer.

Senator SMITH. True, in Massachusetts, New Jersey, and New York they have not had to use that at all; and I wonder, as we feel our way on that whole type of legislation which affects very delicate human relations, whether we would not be better off without the "must" end of it?

Mr. WILLIAMS. I think you ought to do these things; then, if you do not, then you must. It is dressed up into the moral code. You do it to love God, but if you don't, you are penalized.

Senator DONNELL. You think the same principle should be applied in this legislation?

Senator SMITH. That is another slant.

Senator DONNELL. Thank you very much for waiting.

STATEMENT OF ROBERT LATHAM—Resumed

Senator DONNELL. Now we will proceed with Mr. Latham who has just been explaining what he meant by the statement that the company and the local newspaper did their best to promote racial incidents, referring to the strike at the R. J. Reynolds Tobacco Co.

Mr. LATHAM. The company ran white strikebreakers in to take Negro workers' jobs. Whites who stayed in the plants were given Negro jobs, which naturally are the hardest and most disagreeable in the entire operation.

Every time a stone was thrown in Winston-Salem the local newspaper gave it a front-page story, usually with pictures showing the side of the house where the stone had been said to hit. A mild jostling on the picket line was built up in the newspaper as a major incident.

Despite all these attempts to stir up trouble, the white and Negro workers continued to picket together, meet together, plan strategy together without incident or tension.

Now that the strike is over, the Reynolds company is still trying its best to stir up racial trouble, refusing to return several hundred Negro workers to their jobs. Such an obvious attempt to create an explosive situation out of a peaceful and well-conducted strike could be stopped by the application of a fair employment law such as contemplated in S. 984. Certainly the present discriminatory tactics of the Reynolds company are a poor reward for the discipline and orderliness of 10,000 white and Negro workers during the strike.

I cite the situation in Winston-Salem because it answers the familiar line that white and Negro just won't work together; that it is against human nature to expect them to do so; and that it is therefore wrong and impractical to support a permanent FEPC.

People will always work together when they have a common objective to work for. This was shown over and over during the war, when white and Negro people worked and fought side by side to defeat the common enemy, fascism. The Fair Employment Practice Committee set up by Executive order of President Roosevelt turned out to be one of the most practical steps of many taken to speed war production, because it made it easier for all minority groups in the United States to contribute their part toward winning the war.

Who profits by discrimination? Not the white worker, who finds himself faced with even greater exploitation when the minority worker is denied a job or given only the most menial and low-paid work to do. It is a fact that Jim Crow and discrimination breed bad conditions in industry for everyone. The southern white worker, for example, is paid less than his northern fellow worker, precisely because discrimination is worse in the South.

Nobody profits from Jim Crow except the employer, who uses it to maintain a reserve of cheap Negro labor as a constant threat to the

wages and working conditions of the white employees. That is the whole reason why discrimination exists, whether in the North or in the South. It exists because it makes superprofits for those who practice it.

The war taught us that we must remove job discrimination if we were to win. Since the end of the war, that lesson has apparently been forgotten, though the need is no less great now than it was then.

VE-day and VJ-day brought quick lay-offs to hundreds of thousands of workers. The first to be laid off were those workers from minority groups. Since VE-day and VJ-day, jobs have become increasingly hard to get. Right now we are in a situation where unemployment is increasing all over the country. Workers from minority groups are finding it especially difficult to get jobs of any kind. Discrimination, like many other evils, always grows greater in a time of economic crisis. As the economic crisis deepens, minority workers will find themselves increasingly denied even the lower-paid jobs, until finally they are left with nothing.

Our union is greatly concerned about the prospects for minority workers now and in the months ahead. We have seen first hand how hard it is for minority workers to get good jobs and to hold them, even in a time of prosperity. We know how hard it is for minority workers to get any kind of job in a depression. We are concerned to see that they get at least the legal right to apply for and hold jobs on their merits, not on the color of their skin, the place of their birth, or the nature of their religious and political beliefs.

We approach this problem of discrimination not only as a matter of justice and fair play, important as they are in a democracy. We approach the problem also as a highly practical matter of keeping democracy alive.

In the United States and all over the world today the people are stirring, demanding more than a taste of the democracy they worked and fought to save. The military defeat of fascism in Europe and Africa and Asia has won because the people believed in what they were fighting for. Now they must realize those beliefs, or they will revolt against any system that keeps on denying them the fruits of their victory.

Discrimination and Jim Crow are the most explosive issues of today. Practiced on a gigantic scale in the colonial countries, they are responsible for the misery of hundreds of millions of workers and peasants. Practiced here in our own country, they are responsible for low wages, bad living conditions, bad housing, ill health, and early death for thousands upon thousands of American citizens.

People will not stand for such conditions very long. The colonial peoples of the world are already in revolt. Centuries of discrimination and oppression in Africa and Asia are now under attack from the victims themselves. Attempts to suppress such revolts are ending in failure. The former subject peoples are determined to end the system that has kept them in misery and has held down living standards all over the world.

In the process, many of the individuals who have so long exploited others are learning a bitter lesson the hard way. They are learning that exploitation and oppression must come to an end eventually. The cornerstone of Jim Crow and discrimination that propped up their superprofits is being knocked away.

We have the chance here in the United States to take a long step toward ending discrimination by the passage of this bill, S. 984. No one pretends that passage of the bill will completely end exploitation of minority peoples by itself. But it will give us a most powerful level to start the process and to keep it going.

I do not know of anyone, in Congress or outside it, who will argue for the exploitation of minority peoples. I do know that there are many who argue that passage of a fair employment law is not the way to do it.

To those people, we say "No other method of ending discrimination has worked, or shows any signs of working." Education by itself is not enough. State action by itself is not enough—you only need to look at the States' record on lynching to realize that.

Federal action to end discrimination is needed now just as it was needed, and taken, during the war under the FEPC set up by President Roosevelt. It worked then. It will work now.

That is why my organization, representing more than 100,000 men and women workers of a dozen or more racial and national origins, urges passage of S. 984.

Senator DONNELL. Thank you very much, Mr. Latham.

You have read your statement, or substantially all of it, have you not, Mr. Latham?

Mr. LATHAM. Yes, sir.

Senator DONNELL. You do not want it to go in twice? But your testimony will go in in full as it has been given.

We thank you very much, sir.

The hearings in this committee will now be recessed subject to the call of the Chair. I will ask the members of the committee to remain for a few minutes.

Mr. Reporter, the following schedules of the Sheil School of Social Studies will be filed with the committee but not incorporated in the record unless the committee shall later so determine: October 14 to December 14, 1946; January 13 to March 15, 1947; April 14 to June 7, 1947.

(The documents set forth above are on file with the committee.)

Senator DONNELL. I have here also letter from George Shellenberger on the letterhead of the Merchants and Manufacturers Association; he signs as executive vice president, and the letter is dated June 16, 1947. I ask that the letter be incorporated in the record.

(The letter referred to is as follows:)

MERCHANTS AND MANUFACTURERS ASSOCIATION,
Los Angeles 14, June 16, 1947.

Hon. FORREST C. DONNELL,
Senate Office Building, Washington, D. C.

DEAR SENATOR DONNELL. It has come to our attention that you are chairman of a subcommittee of the Senate Labor Committee which is now holding hearings on the so-called FEPC bill.

Previously, we had written Senator Taft, the chairman of the Senate Labor Committee, and perhaps he has passed on to you the information that we sent him.

We would like very much to present a witness, but it is a long and expensive trek to Washington from the Pacific coast.

The point we wanted to get across was that, insofar as we know, California is the only State where the people have actually expressed an opinion on this measure.

Our State legislature turned down an FEPC bill in 1945, and again at the special session in 1946. Then a committee, largely CIO-PAC inspired, undertook by initiative petition to qualify it for the 1946 general election. They obtained sufficient signatures, and so the measure appeared on the ballot as Proposition No. 11.

The subject was debated thoroughly up and down the State—a strong campaign being put on by the proponents, and a limited but very well conducted campaign directed by the opponents joined together as the Committee for Tolerance—Vote "No" on No. 11.

California is considered to be a liberal State—whatever the word "liberal" means—and our voters cast 1,682,040 votes against and only 675,007 for. In other words, the "noes" exceeded the "yesses" by 1,000,000. Nearly 72 percent of the voters were opposed to the measure. What testimony could be more eloquent?

The fact remains that it is quite impossible to legislate an opinion or a frame of mind. Through tolerance and education great progress has been made. The passage of a law on this subject would be more detrimental than almost anything that could be done.

We sincerely hope that your committee, in your sound judgment, will reject this proposal.

Sincerely yours,

GEORGE SHELLINGER, JR.,
Executive Vice President.

Senator DONNELL. I also have received here this morning a statement of Edward Howden, executive director, Council for Civic Unity of San Francisco, June 17, 1947, beginning with the words—

The need for a National Commission Against Discrimination in Employment—and so forth.

The statement is hereby admitted to become a part of the record and the attachments to which he refers are received and filed as a part of the record not to be incorporated, not to be set forth unless hereafter ordered by the committee.

(Mr. Howden's brief is as follows:)

STATEMENT ON S. 984, TO CREATE A NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT, SUBMITTED TO SUBCOMMITTEE OF THE UNITED STATES SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, BY EDWARD HOWDEN, EXECUTIVE DIRECTOR, COUNCIL FOR CIVIC UNITY OF SAN FRANCISCO, JUNE 17, 1947

The need for a National Commission Against Discrimination in Employment, as proposed in S. 984, is so great that it seems almost superfluous to enter into a recital of cases and statistics on job discrimination. We all know—whether we are trade-unionists, businessmen, employment interviewers, or general public—that millions of persons in the United States working force are today denied a fair chance at jobs for which they qualify. We know that discrimination because of race, color, creed, or ancestry pervades all strata and sections of the economy, blighting the growth and freedom of all whom it touches.

You will have heard evidence of discrimination and its effects on a nationwide scale from officers of national organizations. I wish, therefore, to present only summary information on the employment situation of racial and religious minorities in California, with particular reference to the San Francisco Bay area.

Of a total population of about 9,500,000, there are today approximately 1,000,000 Californians whose skin pigmentation makes them subject to discrimination in employment. Of these almost half are persons of Latin-American extraction, about 400,000 are Negro Americans, 60,000 are of Japanese ancestry, 40,000 of Chinese ancestry, 80,000 of Filipino background, 10,000 American Indians, and several thousands otherwise classified or treated as "nonwhites."

In general, the racial and color minorities experience the most serious and thoroughgoing deprivation of equal opportunities for employment. Each of

these groups, except the American Indians, has come to California in one or more successive waves in response to intensive recruitment by employers or government. Each in turn has encountered eventual rejection and even, in some cases, outright persecution. Each group has struggled long and hard to make an adjustment to this discrimination-ridden society which would result in at least some economic security and improved status for the next generation. Heroic strides have been made, often of necessity within the particular minority community and as a result of forced withdrawal from the economic life of the general community. An occasional individual is able to break through the almost invisible net in which these racial and color minorities are held, but unless he achieves the relative independence of a business or profession the gain is a precarious one. Last hired, first fired, is still the general rule.

California's religious minorities include some 175,000 persons of the Jewish faith, approximately 1,800,000 Catholics, and other smaller groups.

Employment discrimination because of religion is a subtler, even more hidden practice than that by which minority Americans of color are ruled out of normal job markets. The extent of direct and indirect job restrictions is not known precisely, since, of course, the shameful statistics of discrimination are buried deep in the private files of numberless concerns and agencies, and of many trade-unions—unassembled, untabulated, and unavailable for public perusal.

Individual cases, however, provide at least a slight index as to the incidence of job discrimination. One such case is recounted in enclosure A. A number of others have been given to this organization by one of San Francisco's downtown private employment agencies; in almost every case definitely qualified persons have been denied even interviews for known job openings. In addition, the former United States Employment Service office in San Francisco has reported two written job orders discriminatory as to religion on a certain day in 1946. It is known that the number of unwritten discriminatory job orders vastly exceeds those which are put on paper. The significance of this figure looms larger when we recall that the public employment service handles less than 10 percent of all placements in San Francisco.

On the same day in 1946 for which the above figures are given, 500 written discriminatory job orders as to race were on hand in the USES local office. In the period since this check was made, the employment situation for minority workers has steadily tightened. Each recent monthly report of the State Employment Service has mentioned that " * * * growing employer resistance further limited the placement of members of minority groups."

The following excerpt from a recent statement by Mr. Fay Hunter, regional director of the United States Employment Service, summarizes the employment problems of Negroes in the Pacific coast States:

"The net result of the war and postwar adjustments has been to bring Negro unemployment back to a close resemblance, statistically, to the prewar pattern. Before the war these areas (Pacific Coast States) commonly experienced the unemployment of around 80 percent of the Negro labor force. That ratio is once again almost correct for the expanded Negro population. * * *

"The current unemployment of 80 percent of the Negro workers contrasts very unfavorably with the unemployment ratios of only around 10 percent for other workers. This means, when measured against the Negro population increase, that the actual number of Negro unemployed has almost tripled since 1940, while "white" unemployment remains below the prewar totals. That comparison is the best single statistical measure of the extent of employment discrimination against the Negroes. Nor is the problem limited to Negro non-veterans. Several areas report that as many as 50 percent of the unemployed male Negroes are veterans.

"Not only do the Negroes now experience a disproportionate amount of unemployment, there is also more hardship connected with it. Unemployment of white workers during the last 18 months has been characterized by a rapid turn-over and relatively short periods of unemployment for each individual. In the case of the Negroes, however, much greater proportions remain steadily unemployed with resulting exhaustion of benefit rights and need for public assistance."

Job discrimination is by no means limited to businesses and trade-unions. Government agencies are among the worst offenders. Our present observations of personnel practices of Government agencies reveal not a decrease in discrimination but a marked increase in adeptness at concealing it. In the absence of any public agency whose purpose is to safeguard the employment rights of all Americans within its jurisdiction, however, it is only through occasional leaks of

information concerning particularly flagrant cases that actual practices become known and corrected.

Recent cases of this nature have come to light in at least three Federal agencies in the bay area—the Army, the Navy, and the Veterans' Administration. Probably no Federal agency is wholly innocent of discriminatory practices. Here, as much as in any other realm of employment, the "watchdog" functions of an adequately staffed Commission Against Discrimination are desperately needed.

For further evidence of discrimination in employment, please see marked sections of the enclosed materials.

The committee has undoubtedly heard both the stock diatribes against fair employment legislation and the cogent arguments in its favor. We do not wish to enlarge unduly upon the already familiar discussion. We do wish to state that S. 984 has the considered endorsement of the board of directors of this council, and that our city-wide membership of some 600 individuals and 60 affiliated organizations stands solidly in favor of such legislation. Your attention is invited further to enclosure B in which appear statements by outstanding bay area leaders in support of an initiative measure for a California FEPC—a measure somewhat more stringent than S. 984—which was on the ballot here last November.

It must be noted, in passing, that the defeat of proposition 11 by California voters in November 1946 cannot be interpreted validly as repudiation of fair employment legislation by "the people." A combination of two main propaganda themes were used against this measure with telling effect. The first consisted simply of billboards which screamed "Stop PAO dictatorship in California," a grossly irrelevant warning in view of the fact that the proposed commission, if authorized, would have been appointed by Republican Gov. Earl Warren. The second main opposition argument held that FEPC was both necessary and desirable, but that the certiorari review provided in proposition 11 was objectionable. This was entirely a difference over legal draftsmanship, not over the principle of FEPC legislation. It is reasonably clear that these two arguments—one wholly irrelevant and the other purely technical—backed up by ample financing, accounted for the margin by which proposition 11 was defeated. It is easy but entirely false to find in this defeat a decisive expression of the people's views on fair employment.

It should be understood that a Commission Against Discrimination in Employment would have no punitive powers. Beyond the problem of achieving nondiscriminatory employment is that of assuring adequate and reasonably continuous employment for all. There is no conflict between the two objectives; America needs both full and fair employment.

If it is argued that we cannot "legislate against prejudice," we must remember that we can control, through proper legislation, specific forms of discrimination. Is education alone the answer? Institutional education is an essential but obviously insufficient influence to prevent job discrimination. Moreover, on-the-job association which the proposed NCADE would establish would provide a tremendous educational force for understanding between groups.

S. 984 is in no sense an experimental or untested measure. Both the wartime Federal FEPC and the 2-year-old New York State Commission Against Discrimination have done valuable pioneering. This legislation probably has been more thoroughly pretested than any other major proposal of recent times.

The cry against more governmental regulation will no doubt be heard again and again in debate over the bill. No one—and surely not the distinguished sponsors of this bill—want more government than is absolutely necessary to preserve a free and democratic America. But we can perhaps gain true perspective on such a proposal if we remember that the final test of any free and democratic society is in the status and treatment of its minorities. It is regrettable but undeniable that *laissez-faire* does not protect minority rights, not even the right to a fair chance at support of self and family.

Job discrimination because of color, creed, or ancestry is a root evil from which stem most of the branches of American racism today. It is to the "minority" worker of the North and West what the poll tax, the white primary, and the lack of civil rights guaranties are to the Negro of the South; a first and fundamental cause of the blight which shrouds his entire life and that of his children. This is a blight compounded of poverty, limited educational opportunity, relegation to a squalid existence with its multiple forms of exploitation, and a thousand attendant humiliations. At the heart of this vicious system is the arbitrary, discriminatory denial of work opportunities to qualified individual men and women.

It took a global war and accompanying manpower embarrassments to open our eyes to the only technique which so far gives any promise of minimizing or wiping out job discrimination. For 85 years voluntary organizations like the National Urban League have been dedicated to the task, have worked patiently, rationally, scientifically at persuading employers and unions to accept qualified "minority" workers—yet no major break-through in the great wall of discrimination had been made until the war-born Federal Fair Employment Practice Committee began operation.

A nation which spends millions for conservation of soil, forests, and other natural resources, for preservation of wildlife, and for propagation of sporting fish can well afford to make modest investments in its human resources. Indeed, we can ill afford to do otherwise, unless we are prepared to meet the inevitable, immediate costs of group tensions which rise as mounting unemployment becomes unevenly and unfairly distributed over our people, or the equally inevitable and not-so-distant damage to the very foundations of our democracy which is done by persistent and uncontrolled group discrimination.

Social discord, injury to civic harmony, and even violence are the common consequences of such discrimination, or of the feeling that such discrimination is being practiced. Where there is no official body to which complaints may be brought, discrimination, whether actual or only alleged, provokes some form of public protest. At present in California such protests are occurring more and more frequently, and are taking the form of picketing of particular establishments and other demonstrations. Whether or not in some cases such demonstrations are inspired or led by so-called agitators with special political motivations does not alter the basic fact that in general the grievances are just. The utter lack of any official interest in the problem (except after it has erupted into overt action), the absence of a commission against discrimination, plays beautifully into the hands of certain types of organizers and demagogues. Granted that some of these same would-be leaders might occasionally incite false complaints to bring before the official Commission, if established. If the Commission is fair and objective, and if its public relations are intelligently handled, false leaders will soon lose their thunder, and civic unity and the whole public welfare and safety will be powerfully buttressed against attack from within.

These things are true of California, of the Pacific coast, and, to the best of our knowledge, of all the United States. On the coast we are particularly aware of the gravity of impending employment problems resulting in part from the inability of old and new industries to absorb the great streams of newcomers of the war and postwar years, and in part from reversion to prewar restricted hiring and firing habits. And we know that in varying degrees these trends are accentuating similar problems in all the Northern and Western States. With technological revolution in southern agriculture rapidly gaining momentum, the prospect is one of substantial, continuous, long-term population shifts. The merest and mildest of the measures with which the Federal Government should prepare itself to meet the problems of group adjustment which are accompanying these extensive migrations is the present bill to establish a national commission against discrimination in Employment.

The time-honored principle of equality of opportunity is at the heart of fair-employment legislation. This is a principle to which we all proudly pay tribute, one which somehow we regard as peculiarly American. Yet this cherished concept is today a mockery to a million Californians and to other millions of Americans throughout the land; to proclaim it is an empty hypocrisy unless it becomes a reality for all Americans. S. 984 now offers the brightest hope that the principle of equality of opportunity shall be invested with full, living significance.

This is a question of fundamental rights of large minorities of our people, and it is also a question of the public safety and welfare.

Both of America's major political parties are pledged to fair employment. America's minorities and their champions will be watching closely to see whether these pledges are at long last to be honored.

Senator DONNELL. I have a letter from Nelson A. Rockefeller. He has sent a letter to me dated June 13, 1947. I suggest that be incorporated in the record if that is agreeable.

Senator IVES. A good idea to have that in.

(The letter referred to is as follows:)

NEW YORK, N. Y., June 13, 1947.

Hon. FOREST C. DONNELL,
Labor and Public Welfare Committee,
United States Senate, Washington, D. C.

DEAR SENATOR DONNELL: May I thank you for this opportunity to present my views on S. 984, a bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry, on which your committee is now holding hearings.

I am in complete sympathy with the objective of this bill, which is to make more effective a fundamental doctrine of the United States. To many of us the principle is so basic that we are apt to overlook the tragic violations of that principle both in spirit and in fact. The importance of the bill that is now before you lies in the opportunity it gives all of us to reaffirm our belief in and determination to abide by one of the precepts upon which our Nation was built and has grown strong.

Intolerance has a subtle way of insinuating itself into our national consciousness. It is a favorite tool of our enemies, as we saw with tragic clarity during the war when Hitler tried to use his customary strategy of divide and conquer. We were strong enough to defeat that strategy, and we must now make ourselves strong enough to do the same thing in peacetime.

It is my belief that this bill not only will be of tremendous importance at home, but in addition will have a very significant effect upon our relations with other American Republics. Citizens of many of the nations of the Western Hemisphere have been disturbed as they have encountered concrete evidences of discrimination in this country. Passage of this bill would serve the very real purpose of reaffirming their faith in us and prove to them that our democracy is a real and vital way of life and would help strengthen the bonds that have been developed over the years between the United States and other nations of this hemisphere.

Perhaps the most important provision of the proposed legislation is the opportunity for conference, conciliation, and persuasion. This is an important educational process which must be the basis of true nondiscrimination. Understanding comes only with knowledge; for without the information and the facts compliance can often be only a token action without the deep-seated belief in principle that knowledge of the facts can give. For this reason the machinery which is set up in the proposed bill can have a far-reaching effect by helping to erase unfair discrimination caused by lack of knowledge and understanding. Over the conference table differences can be ironed out, compromises can be reached, and an important educational technique perfected.

Because of my firm conviction of the importance of this bill, I am taking the liberty of hoping that you and members of your committee may see fit to give it favorable consideration.

Sincerely,

NELSON A. ROCKEFELLER.

Senator DONNELL. I have here a letter dated June 14, 1947, from Charles Hollman, district governor, Employment Agencies Protective Association, Cleveland, Ohio. He submits a brief setting forth five reasons why we protest the passage of the Ives bill.

Senator IVES. Let us get it in.

Senator DONNELL. It will be incorporated in the record.

(The letter referred to is as follows:)

INTERSTATE BUSINESS EXCHANGE, INC.,
Cleveland 14, Ohio, June 14, 1947.

Hon. FOREST C. DONNELL,
Chairman, Care of United States Senate,
Washington, D. C.

DEAR SENATOR: As district governor of Ohio, in behalf of the Employment Agencies Protective Association, I enclose herewith copy of brief setting forth five reasons why we protest the passage of the Ives bill, known as FEPO legislation, as it is now written.

I believe the brief very clearly states our objections and trust that same will receive your careful consideration when deliberating on the Senate bill S. 984 during the hearings.

Respectfully yours,

CHARLES HOELMAN,

District Governor, Employment Agencies Protective Association.

MEMORANDUM BRIEF IN OPPOSITION TO SENATE BILL 984, FAIR EMPLOYMENT PRACTICE LEGISLATION

Our opposition to the enactment of this character of legislation is that the proposed antidiscrimination laws are arbitrary, discriminatory, unnecessary, impractical, and unwarranted.

1. This proposed legislation is arbitrary, one-sided, and unfair to employers who are subjected to a most severe penalty for its violation. The punitive measures contained in this bill, if enacted into law, would be contrary to both the spirit and letter of the Constitution of the United States. While a willful violation of section 11 of the Senate bill 984 is a misdemeanor yet a violation of section 14 is a felony, punishable by a fine of not more than \$500 or by imprisonment for not more than 1 year, or by both.

The bill arbitrarily defines an employer as well as a labor organization as a person and organization having 50 or more individuals and members. Why should the number be arbitrarily limited to 50? If this proposed civil-right legislation is beneficent and for the public good, why should it not be applicable to all employers and labor organizations regardless of their numbers and size.

Also, why should religious, charitable, fraternal, social, educational, or sectarian organizations be arbitrarily exempted from the provisions of this bill? The bill is not of universal application and it is per se arbitrary and discriminatory and is another step in a nationally organized movement to place upon fair-business enterprises unworkable and damaging restrictions.

2. This proposed legislation is discriminatory. It definitely discriminates against the employer and the employment agencies in favor of the employee. It would destroy the merit system as the basis of employment and would interfere with the right of private business to manage its own affairs and would seriously affect the authority and prestige of employers in the conduct and operation of their business. It would reduce the efficiency and destroy the morale and impair the effectiveness of business organizations. Employers might be compelled, under this proposed law, to reemploy dismissed employees and to employ rejected applicants who were incapable and unfit. This proposed legislation would seriously hamper employers or employment agencies from securing the necessary and important factual data regarding an applicant for employment. For example, this bill, if enacted into law, would prohibit employers or employment agencies from making inquiry of an applicant as to his religion. The question as to what church the applicant belongs or what are his secular religious affiliations is unimportant, but whether or not the applicant has a religion and believes in a Supreme Being is highly important. Honesty and dependability of the applicant are a necessary prerequisite to all employment, and more particularly in positions of trust. Those employees entrusted with other people's money and serving in a fiduciary capacity who have religious affiliations and believe in a Supreme Being who will punish wrong doing as well as reward virtue and good deeds are much better risks as employees than the atheists or agnostics. Statistics fully prove this statement. Yet this proposed law would totally prohibit employers and employment agencies from ascertaining from applicants answers to these most highly and vital questions which constitute the basis of such employment. In this respect, this bill violates every sound principle of traditional Americanism.

3. This proposed legislation is unnecessary. If such a condition of unfair and discriminatory employment practice exists in the United States, which this proposed legislation is designed to cure, it should be remedied through the means of education and voluntary cooperation by and from civic, religious, educational, and fraternal organizations. Discrimination by one class of individuals against another class of individuals on account of race, color, religious creed, national origin, or ancestry is a moral issue rather than a political problem to be cured by legislation. A close reading and study of the history of the United States will convince one that Congress cannot legislate morals into the hearts and lives of our people. This was attempted during the days of prohibition and completely failed. The alleged discrimination which this legislation is designed to correct is nothing more than moral prejudice. Prejudice is akin to selfishness and God

knows that Congress cannot pass laws attempting to eradicate those things even though we all agree that they are unmoral and wrong. Let us approach this problem in a sensible and not a hysterical manner.

4. This proposed legislation is impractical. A law that is clearly unnecessary is incapable of enforcement. An impractical law will create a condition much worse than the one which the law is designed to correct. This bill, if enacted into law, would harass employers, encourage frivolous and unjustified complaints, and create a feeling of antagonism between employer and employee as well as among persons of different races, colors, and creeds. This proposed legislation would certainly do more harm than good. It would tend to destroy our freedom.

Those who drafted our Constitution were careful and alert to give us the necessary freedom that our forefathers so valiantly fought for.

When freedom is destroyed, whatever takes its place is tyranny. There is no substitute for freedom, only in a free society can man be man. Private enterprise, which we cherish for America, can live only in a free economy. Destroy liberty and you kill private enterprise. Limit private enterprise and you massacre freedom. What is separately spoken of today as "political freedom" and "economic freedom" are one and the same, and to attempt to separate them is to open the door for the tyrant.

The problems that face us today—the enjoyment of our democracy, the maintenance of private enterprise, the preservation of a free economy, and the security of our liberties—are all realities.

All employment relationships are social relationships, as well as economic. The proposed legislation referred to would attempt to legislate social activities under the guise of legislating economic activities.

5. This type of legislation is unwarranted at this time. The protection of the public welfare, prosperity, health, and peace of the people of the United States does not, at this time, justify the enactment of this bill. The American businessmen are, for the most part, honest and fair in their dealings with others. They are universally free from prejudice and they do not practice oppression upon their employees. They would not be successful if they did those things. The American businessmen are the main support of our National Government. It is their tax money which enables our National Government to properly function in the interests and for the benefit of all of our people. Now, because of the alleged wickedness of businessmen, it is proposed to saddle upon them an autocratic bureaucracy as an additional tax load to carry.

Senate bill 984 provides for the creation of a commission comprised of seven members receiving salaries of \$10,000 per annum. And, in addition, the taxpayers must pay for clerks, lawyers, investigators, and other employees necessary to carry out the purpose of the act. The enactment of this bill means another commission or bureau and more taxes. Is such legislation warranted at this time? The answer should be most emphatic in the negative.

CHARLES HOLLMAN,

District Governor, Employment Agencies Protective Association, 808 Hippodrome Building, Cleveland 14, Ohio.

Senator DONNELL. Here is a telegram from Brownie Lee Jones, chairman; Amos C. Clark, secretary, the Richmond FEPC Committee. They are in favor of it.

I offer that for the record.

(The telegram referred to is as follows.)

RICHMOND, VA., June 19, 1947.

The Honorable FOREST C. DONNELL,

Chairman, Senate Labor Subcommittee,

Senate Office Building, Washington, D. C.:

The Richmond FEPC committee, composed of representative white and Negro citizens, wishes to be recorded by your committee as supporters of Senate bill 984. The right to work is the right to live; any interference with that right is undemocratic. Today in Virginia we find hundreds of Negroes losing their former work opportunity. This threatens the security of large segments of our population and a disorganization of our economy.

BROWNIE LEE JONES, Chairman.

AMOS C. CLARK, Secretary.

Senator DONNELL. Here is a statement by Leo Cherne, vice president, Freedom House.

Senator IVES. Let us insert the statement.
Senator DONNELL. I offer that for the record.
(The statement referred to is as follows:)

STATEMENT SUBMITTED BY LEO CHERNE, VICE PRESIDENT, FREEDOM HOUSE, BEFORE THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE IN SUPPORT OF THE IVES-CHAVEZ BILL

The opportunity to testify on behalf of the bill to establish a National Commission Against Discrimination in Employment is one I value more highly than I can convey to this committee. I shall, with the exception of a few introductory comments, confine myself to the economic implications of the proposed legislation.

A little more than a year ago I was requested by General MacArthur to prepare a tax and fiscal program for submission to the Japanese Diet. Several months in Japan in connection with that assignment enabled me to understand more fully some of the problems of that portion of the world. Just prior to that occasion a somewhat similar mission enabled me to observe at first hand a number of the economic and social problems which trouble the European Continent. On both occasions I found the economic problems inseparable from psychological and social attitudes. And in both cases, as a citizen of the United States, I would have been grateful had I been able to point to legislation on our national statute books comparable to S. 984.

Whatever the nature and however far the extent of our participation in world affairs, discrimination—particularly that directed against the Negro—is the heaviest millstone around the neck of American foreign policy. In our effort to prevent Soviet domination of independent and democratic nations, a Federal law against discrimination in employment will in our influence abroad be worth the sum we have appropriated under the Truman doctrine. And so that I may be completely understood, may I say that I wholeheartedly support every peaceful effort that will successfully impede the westward march of the Russian police state.

There are equally valid day-to-day, dollars-and-cents reasons right here at home for enactment of the Ives-Chavez bill. Any community of workers that is discriminated against in employment is also a community of consumers who discriminates against the purchase of American-made goods. Any man who can't earn can't buy. The bare subsistence group in the American community is not on the market for radios, automobiles, washing machines, nor even bathtubs. When the average salary of one teacher in southern elementary schools is only 60 percent of that of another teacher, quite obviously that teacher is only 60 percent the purchaser. He provides only three-fifths the economic stimulation to our total society that he is capable of.

In the rural South, the Negro family's income is only one-half that of his white neighbor. In the southern city it is only one-third as large. In the North, the average white family's income is almost 60 percent higher. It is estimated that in the South 80 percent of all Negroes fall into the lowest income bracket as compared to less than 25 percent of the white population; and while in a normal year 18 percent of the white population will earn over \$2,000, only one-tenth of 1 percent of Negroes will do so.

In other words, America's magnificent productive capacity and its even more remarkable standard of living are not shared by 1 in 10 of our citizens.

Furthermore, the costs of discrimination in terms of productivity, although difficult to measure, are substantial. When an employer is limited in his choice of qualified employees to certain racial or religious groups, he cannot always choose the most skilled man for the job. Every time he must hire the poorer man, productivity suffers and costs of production are increased. Likewise, when a skilled mechanic must take a job as a servant, the community suffers a double loss. Not only in his productive capacity unutilized, but our investment in his education is wasted.

Most of the old arguments against the employment capabilities of the Negro evaporated during the war years. By mid-1944 almost 120,000 Negroes were employed in the manufacture of planes and tanks, in the aircraft and automobile factories of the Nation. Almost 200,000 were in the shipyards and about 100,000 were in the electrical machinery and equipment plants from which, incidentally, they had been almost totally excluded before the war. The numbers of Negroes employed in transportation and communications almost doubled during the war years. Altogether, in manufacturing and processing alone the number of Negroes employed increased from 500,000 in 1940 to one and a quarter million in 1944. While the total of Negroes employed in war industries was less than the national

proportion of Negroes, in some industries, such as shipbuilding and the manufacture of ammunition, their numbers even exceeded their proportion of the total population.

No economist can precisely indicate the dollars-and-cents cost of certain aspects of discrimination. But we do know that the following conditions involve an enormous national cost: The Negro's average life is 10 years shorter than that of the white population. Three times more Negro than white women die in childbirth. Illness and disease do not confine themselves conveniently within color groups. Wherever the death rate for the Negro is highest, so too does the death rate rise for the members of the white race. In those States in which infant mortality among the Negroes is greatest, the deaths of infant white children are greatest. There are many times when an economist wishes he could actually compute the dollars-and-cents value to our Nation of a single life. We know that life has a value. A live person works, buys, builds, expands, stimulates every facet of our economic activity. To the extent that we fail to protect the lives of any group, we diminish the fruits of our society and the share of each of us in them.

All the factors add up to an enormous cost to any area where a large segment of the population is discriminated against. The States which had a per capita income of only \$300 in the boom year of 1940 were those in which discrimination was greatest, whereas the income for the more democratic States was the highest per capita in the country, averaging \$800. There have even been responsible estimates that the total cost of discrimination in our country is between \$15,000,000,000 and \$30,000,000,000 a year.

There are valid economic reasons for the United States seeking and enjoying markets in other countries. There are few people who question that any increase in the living standard of the Chinese or the English or those in Greece and Italy will enlarge the demand for American goods and services. There can obviously, therefore, be no valid arguments against the removal of those arbitrary barriers to the expansion of economic opportunity for any groups in our own country now suffering discrimination. The bill to establish a National Commission against Discrimination in Employment would make a real contribution in this direction with the minimum of confusion, irritation, and readjustment. Each economic advance in the history of the United States has been achieved by the elimination of an area of distaste, social myth, or prejudice.

I feel privileged to have been able to have these few words in behalf of the effort which this committee is considering.

Senator DONNELL. This is a statement by Mrs. J. Birdsall Calkins, of Arlington, Va. She is president of the YWCA's of the United States.

That ought to be set forth in the record.
(The statement referred to is as follows:)

STATEMENT OF THE NATIONAL BOARD OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATIONS IN SUPPORT OF THE NATIONAL ACT AGAINST DISCRIMINATION IN EMPLOYMENT (S. 984), PRESENTED BY MRS. J. BIRDSALL CALKINS, OF ARLINGTON, VA., PRESIDENT OF THE YWCAs OF THE UNITED STATES, FOR MRS. ARTHUR FORREST ANDERSON, PRESIDENT OF THE NATIONAL BOARD OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATIONS

The constituency of the Young Women's Christian Association includes all kinds of people. Many of its women and girls stem from the dominant ethnic and religious groups in the country; that is, most of them are native-born or second generation white people who are Protestants. Our most recent national reports show that, in addition, our membership of over 600,000 includes 10,000 foreign-born white people, 83,000 Negroes, 400 American Indians, and 5,000 Orientals.

Religiously we number 8,000 Jews and 80,000 Roman Catholics. These membership figures present only a small part of our total constituency; within our thousands of volunteers and participants in YWCA service, educational and recreational programs throughout the country, are numbered many other women and girls, and many of them are members of minority groups.

The concerns of these people are, and must always be, the concerns of the Young Women's Christian Association. Our interest in the bills to "prohibit discrimination in employment because of race, religion, color, national origin, or ancestry" is a living, vital interest. It roots in the daily lives of thousands of the people

for whom and through whom we exist. We are concerned about all facets of a full, free, abundant life for every individual we touch. We are a membership organization with a Christian purpose motivating our deep concerns for the spiritual welfare of our constituents, but we realize that just as man cannot live by bread alone, neither can he live without bread. For many years the public affairs program adopted by our national conventions has included a section on economic welfare which has given our national movement a charter to support proposals for the solution of our Nation's basic economic problems and to secure for Negroes and other minority groups an equitable share in economic opportunities.

In March 1940 the YWCA's of this country met in national convention and reaffirmed our belief that the integrity of our democracy is tested by its treatment of minorities as it adopted a public affairs program, including a section stating:

"We will work to insure full educational, vocational, cultural, and economic opportunity to minorities * * * We will continue to support legislation for the elimination of discrimination in employment, such as a Permanent Fair Employment Practices Committee."

Those who voted for the adoption of the principal of fair practice in employment were drawn from the 435 communities—rural and urban—and the 606 student units of the YWCA. We know from actual experience that there are many among the participants in our program today who are denied employment because of their race, religion, national origin, or ancestry. Employment policies which limit opportunities to "white Protestants only" deny a fundamental right to many of our own members. Chief Justice Hughes, in 1915, in a case involving immigrants, said:

"The right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the fourteenth amendment to secure * * * (The contrary) would be tantamount to the assertion of the right to deny them entrance and abode, for in ordinary cases they cannot live where they cannot work."

We call this to your attention now in connection with the bill your committee has under consideration (S. 984 introduced by Senators Ives, Smith, and Murray) because we are convinced that a National Commission Against Discrimination in Employment, given legislative sanction of its enforcement powers and set up on a permanent basis, is one of the surest safeguards to the personal freedom and opportunity for which the United States of America traditionally has stood. We know that already our country has begun to lose employment gains made during the war. With the cessation of hostilities a system which hires last and fires first members of minority groups regained momentum. Without an adequate safeguard we shall lose on our home front the struggle to make all the lands free people.

In addition to our desires to see our democracy maintain equal economic opportunities for all our people, we are anxious to avoid the disastrous consequences of failing to do so. To refuse economic opportunity to any group in our population is to compel that group to remain at a low standard of living and to perpetuate for them bad housing conditions, high sickness and death rates, inadequate food, clothing, and education which sooner or later result in delinquency and even criminal conditions and the possibility of riots growing out of racial tensions.

American citizens do not need to continue to exist under such conditions. Adequate economic opportunities for all people will do much to alleviate them. We believe these bills will go far to insuring that members of minority groups have equal chance to be hired on jobs which enable them to improve their standards of living. Furthermore, the bills would help to remove from our democracy the practice of economic discrimination against our own citizens.

Our national program places considerable emphasis on social education. We try to educate our membership to the full meaning of democracy and Christianity. Throughout the country we find it difficult to carry conviction with young people who are aware of the serious discriminations in American life. We know that sound education involves experience; these cannot be divorced from each other. The experience of many employers and employees who worked together without discrimination during the war is of the essence of education for democratic living. The bills to eliminate discrimination in employment will help us narrow the gap between our stated beliefs and actions in this country, thus providing a setting for America's to learn a basic principle of democracy.

As an international organization, the YWCA continues to work to help build a world of peace and justice. We realize that our country's contribution to a world order in which the administration of justice and the participation of all peoples must be on a basis of equality depends upon what we accomplish in community relations at home. The YWCA's national public affairs program also states:

"We will promote and support efforts by our Government to make the United Nations a more perfect instrument for the service of all mankind. * * *

We are convinced that the bills to eliminate discrimination in employment in our national life move us toward the fulfillment of material and moral obligations our Government has undertaken by the ratification of the United Nations Charter to promote "universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, and religion."

Mrs. ARTHUR FORREST ANDERSON,
President.

Senator DONNELL. Here is a letter on onionskin paper dated June 16, 1947, signed by Hudson DePriest, bearing a newspaper clipping. The letter will be set forth as well as the clipping, since it is a short one.
(The letter and clipping referred to are as follows:)

NEW YORK 1, N. Y., June 16, 1947.

MY DEAR SENATOR: I desire to appear before the committee holding hearings on the FEPC proposal of Senator Ives, in opposition, and I hope that the committee will continue the hearings until I can appear, next week.

In the event of their earlier close, I desire to have read into the record the following, including the attached quotation from the San Diego (California) Broom:

The Ives law here in New York is in no sense an antidiscrimination measure but is a compulsory discrimination act.

Since all hiring of help, where two or more persons apply for a single job opening, requires discrimination (the employer must turn down one or more), it follows as the night the day that when the law states to the employer, "You must not discriminate against the colored man or the Russian Red," it means that he must accept such person or persons and turn down (discriminate against) the native white.

Moreover, as shown by the enclosed clipping concerning the working of the Ives-Qulun law in action, in the case of the Brooklyn Gas Co., it opens the doors wide for the infiltration of Reds into every factory.

The law is a vicious attack upon, and destruction of, the right of an employer to select his help as he chooses—a right as old as the human race.

Under our Federal Constitution this right is protected by the ninth and tenth amendments—it is a right reserved to the people. There is no more sacred right; and this right and liberty of the employer would be destroyed under this infamous proposal.

As a Republican I voted for Ives, solely as the lesser of two evils. He and Lehman both approved the vicious FEPC, and the people had no alternative.

It cannot be too strongly sounded in the Senate that the great State of California, after a widely publicized campaign, voted down the FEPC by over 1,000,000 majority. Only State to give its people a vote on it.

This is a measure of atrocious demagogism and treason to the old American way of life, a vicious attack upon States' rights, and a surrender to the Daily Worker, the newspaper PM, and other Red forces.

I trust that the committee will unanimously turn down this Red Socialist proposal.

Yours faithfully,

HUDSON DE PRIEST.

CONNECTICUT GOES "NEGROID"

The once great "grand old American" State of Connecticut has become the fourth State to "go Negroid" by passing the infamous Red law known as FEPC—to invite the cottonfield Negroes of the South to come into its urban centers and displace the native American whites, and also to "stack" the factories with Russian Reds, whether the employers wish to hire them or not.

The Red friends of the measure pulled a fast one, rushing it through the legislature, and stealthily kept from public notice that the great State of California had voted such a measure down by 1,000,000 majority.

The vote in the Connecticut House was 121 for, to 105 against, a majority of the Republicans being against the measure, but the solid New Deal vote added to the Republican minority brought victory for the mongrel measure.

The way the law works in New York, where it was pioneered by the apostate Dewey, is as follows: The SCAD leaders go to a company like the Brooklyn Gas Co. and say: "Hereafter you must cease hiring persons on the recommendations of your present employees. You must put ads in the Jewish and Negro newspapers when you wish more help."

The Reds keep an eye open for such ads and rush their own followers to take the jobs thus offered in the Negro and Jewish press.

In this fashion the Reds expect to infiltrate into every factory in the Negroid States of New York, New Jersey, Massachusetts, and Connecticut, and are doing so.

These vicious laws are so framed as to forbid an employer to inquire into the background of an applicant for work.

Recently, a great New Jersey factory closed its plant and will move most of its personnel and its entire equipment into Georgia, where it has plants in five cities, and where there is no danger of Red infiltration via the FEPC.

Senator DONNELL. If there is nothing further, gentlemen, the committee will recess subject to the call of the Chair or the call of the committee, as the case may be.

(Whereupon, at 1 p. m., the committee adjourned.)

ANTIDISCRIMINATION IN EMPLOYMENT

WEDNESDAY, JULY 16, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the committee room, Capitol Building, Senator Forrest C. Donnell, presiding.

Present: Senators Donnell (presiding), Smith, Ives, Murray, and Ellender.

Senator DONNELL. The subcommittee will come to order. We will resume the hearings on S. 984.

Senator Ellender has certain exhibits that he desires to introduce into the record at this time.

Senator ELLENDER. Mr. Chairman, I would like to have incorporated in the record at this point an editorial appearing in the New Orleans States in the issue of June 10, 1947, entitled "FEPC Is a Threat to Workers."

Mr. Chairman, I would like to say that I have invited Mr. Ralph McGill, a columnist for the Atlanta Constitution, to appear as a witness. Mr. McGill informed me that he was unable to come here today. He sent me an editorial prepared by him, and one which was widely circulated throughout the South. It is entitled, "There Ought Not To Be an FEPC Law."

I ask that that editorial also be incorporated in the record.

Senator DONNELL. Those two clippings described will be so incorporated.

(The clippings are as follows:)

[From the Atlanta Constitution, June 22, 1947]

THERE OUGHT NOT TO BE AN FEPC LAW

(By Ralph McGill)

Congressional hearings now are being held in Washington on the Fair Employment Practices Committee Act.

This is commonly known as the FEPC.

If I were able to testify I would appear against the bill for a number of reasons which seem valid to me.

I would expect such testimony to be distorted.

The bill now proposed is less drastic than the one formerly offered, in that it applies to businesses employing 50 or more persons instead of 6 as formerly.

I am for everything stated in the preamble to the bill. In this section it sets out that it is not in keeping with American principles that a person be denied an opportunity to work because of his race, religion, or national origin. It also declares that such practices foment domestic unrest, endangers the general welfare, and adversely affects the domestic and foreign commerce of the United States.

All that is true. It could go even further and say that it affects the international relationships of this country with others and that such practices provide our enemies, and those opposed to our system of government, with very effective propaganda against us.

That, too, is true.

But it still is not sufficient reason for a Federal law.

I think I can demonstrate the truth of that premise.

Law: In the first place, we seem to be in an era when we say that if we can only pass laws enough we will solve all problems.

But in this very human, but very illogical search for a panacea, we forget one important fact.

No law can succeed which is not undergirded, or supported, by opinion.

Any law which contains an element of coercion is doomed to failure. In its failure it tears the fabric of all law.

The prohibition law, coercive and not supported by public opinion, is an excellent example.

Proposals: It—the proposed FEPC law—proposes what is, in effect, a police force for enforcement. It gives great and arbitrary authority to its director and aides.

It does not provide that any person of a minority, a Negro, Mexican, a Chinese or Japanese, must be hired. Nor does it require that a person belonging to a minority religious group be given employment.

It simply says that one may not be refused employment because of such a fact.

Yet quite obviously it supplies such a person, once employed, with a greater protection than that given a person of a majority group, and subjects a majority group employee to discrimination in cases of discharge or lay-offs.

I put this in because my next point is that you simply cannot control what is, in essence, human morality and ethics with law.

Lynchings: I think it has come to be very clear to a great many persons who have favored a Federal lynch law that the recent Greenville, S. C., case would have been in no degree different had there been a Federal law.

The law functioned perfectly.

It was the moral sense of the jury which rendered a not guilty verdict for men who had signed confessions implicating themselves. The law did not fail.

In the recent Federal grand jury investigations of the horrible and awful Georgia lynch murders, the Federal law and jury functioned according to law.

The Federal law, and agency, here failed because again, those persons who knew about the murders were not willing to testify because of fear or a lack of moral sense and responsibility.

The same reasoning applies to a Federal FEPC law.

Respect: There is a demand for a Federal law because of the great respect we have for Federal law. There is a turning to it in times of frustration and failure of other law. Yet a Federal FEPC law or a Federal lynch law would serve to weaken Federal law and would serve no other purpose.

Also this may be said without fear of refutation—namely, that such a law would give to the anti-Negro and anti-minority forces generally a weapon they do not now possess.

It would direct the energies of many employers who now, although reluctantly, are beginning to do the right thing because of the pressure of public opinion, into the channels of evasion.

It is directed principally in behalf of the Negro. The South has about 70 percent of the Negro population. Yet what largely is ignored is the fact that about 75 percent of that population is farm population. The FEPC is largely political in origin and many of those who push it are not interested or near the core of the problem.

Wrongs: The Negro ought to be employed on the basis of his skills and ability. We keep our economy poor by depressing him.

But a law will not change it.

We will do things for the Negro, and the minorities generally, if we proceed with the chief offensive directed at the basic injustices in housing, health, educational opportunities, police, and courts.

Employment in the South will become more general only when there are more jobs, and more jobs are on the way. To pass a law directed largely at a section which has never had enough jobs doesn't make good sense anyhow.

I feel so strongly about this, and believe so firmly that a Federal law as proposed will be detrimental, that I had to say all this. I think the FEPC is wrong, though its objectives of providing employment be proper.

[From New Orleans States, June 9, 1947]

FEPC IS A THREAT TO WORKERS

A subcommittee of the Senate Labor and Public Welfare Committee will begin hearings tomorrow in Washington on the latest version of the annual fair employment practices committee bill.

The members are Senators Donnell, Missouri; Ives (the author of the measure), New York; Smith, New Jersey; Pepper, Florida; and Ellender, Louisiana.

The bill this year would set up what is called a National Commission Against Discrimination in Employment, and aims to prohibit such discrimination because of race, religion, color, national origin, or ancestry. It doesn't say anything about the color of an applicant's eyes.

The measure, Senate bill 664, is just about the same as that of last year which was filibustered to death on the Senate floor. The main changes are that it applies now to employers in interstate commerce with 50 or more employees, and unions with 50 or more members. Last year it was six. But good times and employment being what they are, they upped it.

Another change is that instead of a \$5,000 fine or 1 year in the jug for interfering with a member of the Gestapo which would be set up to enforce this thing if it became law, the fine now would be only \$500. You can still get the year.

There is no trial by jury. If an employer were to violate this contemplated law, he could be found guilty after due process of contempt of Federal court.

There is also the little matter of a \$500 to \$1,000 fine for willfully failing to post or keep posted in a conspicuous place on the premises of the employer notices which the "commission" deems necessary to effectuate the purposes of the act. And a fine for each separate offense.

Who will do all this? A commission of seven men, appointed by the President and confirmed by the Senate, will head the Gestapo. This commission shall have the powers, among others, to appoint such agents and employees as it deems necessary to assist it in the performance of its functions, and to issue, amend or rescind suitable regulations to carry out the provisions of this act. If it goes too far in these new regulations, the Congress is granted the right to nullify them by concurrent resolution.

The trouble with this is that it will not work. The historic answer is still that you cannot legislate a state of mind, or prejudice. And if it isn't prejudice to attempt to tell an employer whom he can hire or fire any more than you can tell an employee he has to work there we don't know what the word means.

Proof that this daydream is no more workable than prohibition is found in section 6g of the act, subsection 5 of which says:

"Upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this act, (the commission shall have the power) to assist in such effectuation by conciliation or other remedial action."

" * * * Or other remedial action." Therein lies the threat to all employees.

And that threat is bland confession that the authors of this unfair, prejudicial and inflammatory legislation know themselves it will not work.

Senator DONNELL. Is there anything further, Senator Ellender?

Senator ELLENDER. I have a telegram from Gov. Millard F. Caldwell, of Florida, which is dated July 3, and I would like to have that incorporated into the record at this point.

Senator DONNELL. It will be incorporated into the record.

(The telegram is as follows:)

TALLAHASSEE, FLA., July 3, 1947.

HON. ALLEN J. ELLENDER,

United States Senator, Labor and Public Welfare Committee,

Washington, D. C.

Retel. Because Governors' conference conflicts with FEPC hearing dates, will not be able to appear but would like the record to show that, in my opinion, the proposed legislation, when viewed from a Nation-wide standpoint, is unwise. Florida and the South generally are making real progress toward more amicable relationship between the races and better living, educational, and health standards. Intermeddling in the form of FEPC can only engender ill feel-

ings and retard development. Sincerely hope this important question may be divorced from politics and the good of the country as a whole served by its early defeat.

MILLARD F. CALDWELL, *Governor.*

Senator ELLENDER. Mr. Chairman, I have many other exhibits that might be pertinent, but it is not my desire to clutter the record with them. I will be content to place certain selected articles into the record with a few more added tomorrow.

Senator DONNELL. You say that you have quite a number of exhibits and various items for submission for the record, also, which you will endeavor to bring tomorrow?

Senator ELLENDER. Yes, sir.

Senator DONNELL. So far as practicable, the committee will endeavor to place the exhibits now at its disposal into the record and have them incorporated as a part of the record.

Senator ELLENDER. It has been the custom to present them for the record, and the clerk under the supervision of the committee, would incorporate such exhibits as in the committee's opinion should be put into the record.

Senator DONNELL. That is right.

Mr. Looney, will you please come forward?

STATEMENT OF FRANK J. LOONEY, ATTORNEY, SHREVEPORT, LA.

Senator DONNELL. Will you please state your name and address?

Mr. LOONEY. Frank J. Looney, Shreveport, La.

Senator DONNELL. What is your profession, Mr. Looney?

Mr. LOONEY. The practice of law.

Senator DONNELL. In order that we may have an adequate description of factual data in the record as to your background, you do not mind if I ask you a few questions, do you?

Mr. LOONEY. Not at all.

Senator DONNELL. Where were you born, Mr. Looney?

Mr. LOONEY. Shreveport, La.

Senator DONNELL. What year was that?

Mr. LOONEY. 1873.

Senator DONNELL. Can you tell us something about your education?

Mr. LOONEY. I graduated from military school in Shreveport, and then I went to Tulane, studied law, and also Washington and Lee, where I graduated in 1894.

Senator DONNELL. Where did you take your degree in law.

Mr. LOONEY. Washington and Lee University.

Senator DONNELL. You had previously studied law at Tulane University?

Mr. LOONEY. Yes, sir; and part in the office of a lawyer.

Senator DONNELL. After graduation in law work, what did you do?

Mr. LOONEY. I tried to practice law at first, you might say, and then I went into service in the Spanish-American War. I was occupied at that for a while, and after a time I came back to the practice of law and I have been practicing law ever since.

Senator DONNELL. Would you tell us something of your experience in the Spanish-American War? Also, your rank in the Army?

Mr. LOONEY. I was a captain in the Infantry. I was a part of the Second United States Volunteer Infantry.

Senator DONNELL. Where did you serve?

Mr. LOONEY. Santiago, Cuba.

Senator DONNELL. After you came back from the war, did you resume law practice?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Tell us, if you will, whether you have been continuously in the practice of law from that time until now?

Mr. LOONEY. I was in New York City a little while during the campaign of 1900. I was very much interested in Mr. Bryan. At that time I went to New York City where I stayed 6 months. I did not do much in the way of practicing law. It was mostly political speaking done at that time. The balance of the time has been spent in the practice of law.

Senator DONNELL. You have been engaged in the practice of law for nearly 50 years?

Mr. LOONEY. Over 50 years.

Senator DONNELL. Since the Spanish-American War?

Mr. LOONEY. Yes, sir.

Senator DONNELL. You practiced law before that. So the aggregate is over 50 years?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Mr. Looney, would you tell us something of the nature of your practice?

Mr. LOONEY. It has been general practice; that is, both civil and criminal.

Senator DONNELL. Have you practiced in the courts as well as in the office?

Mr. LOONEY. Mainly in the courts.

Senator DONNELL. You have tried many cases both in the trial courts, and on appeal, I take it?

Mr. LOONEY. Yes, sir. Also in the State and the Federal courts.

Senator DONNELL. Of what courts are you a member of the bar?

Mr. LOONEY. Well, the Supreme Court of the United States and the courts of Louisiana and the Federal Circuit Courts of the Eighth and the Fifth Circuits, and several District Federal courts.

Senator DONNELL. I am interested to note that you are a member of the bar of the Eighth Circuit Court. That happens to be the circuit in which I live. Have you practiced or argued cases in that circuit?

Mr. LOONEY. Yes, sir; both in St. Louis and in St. Paul.

Senator DONNELL. Have you had occasion to file briefs and argue cases in the Supreme Court of the United States?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Mr. Looney, I presume that in your long period of living in Louisiana that you have frequently come in contact with the problems attendant upon the relations of white and colored people?

Mr. LOONEY. We have not had many problems. We have had, of course, certain situations, and conditions arise sometimes, but I have not known of any time in the whole of my career, and I might say that I am a link between the old South and the present conditions, as you can see from my age, but I have not known of any serious trouble, or problems that have arisen.

Senator DONNELL. I did not mean to imply trouble by the word "problem." I refer to educational problems, and like subjects. I take it that you are familiar with these.

Mr. LOONEY. I might say that I was practically raised as a child by one of my grandmother's slaves. Since then, we have always had colored help, and still have, although it is hard to get colored help now.

Senator DONNELL. Have you held public office at any time?

Mr. LOONEY. I was in the Constitutional Convention of Louisiana.

Senator DONNELL. What year was that?

Mr. LOONEY. That was in 1921. Senator Ellender was an associate of mine. Again, the nearest that I came to public office was as a candidate for the United States Senate when Senator Ellender was elected, but that was not as his opponent.

Senator DONNELL. Then you know Senator Ellender quite well?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Mr. Looney, have you served at times upon the bench either as an elective official, or by designation in trial on some particular cases?

Mr. LOONEY. No, sir.

Senator DONNELL. You have not?

Mr. LOONEY. No, sir.

Senator DONNELL. Are there any other questions that you can think of, Senator?

Senator ELLENDER. Have you ever represented any colored people in lawsuits that you have conducted in Louisiana, or outside of Louisiana?

Mr. LOONEY. In Louisiana, very frequently. I have not had any colored cases outside of Louisiana.

Senator ELLENDER. I think that you were in one of the most celebrated cases respecting the oil rates, and the case in which you were engaged established jurisprudence in Louisiana, did it not?

Mr. LOONEY. Do you mean the Lilly Taylor case?

Senator ELLENDER. Exactly.

Mr. LOONEY. Yes, sir.

Senator ELLENDER. The Lilly Taylor of that case is a colored person?

Mr. LOONEY. Yes, sir.

Senator ELLENDER. That was one of the big lawsuits at the time, was it not?

Mr. LOONEY. Yes.

Senator ELLENDER. Mr. Looney, have you made a study as to the right of Congress to enact the sort of legislation that is included in the FEPC bill, so-called?

Mr. LOONEY. Yes, sir. As you know, Senator, I have taken a great deal of interest in a lot of these questions, such as poll tax and the white primaries. I was State chairman of the State senate committee from 1920 to 1944.

Senator DONNELL. That is the democratic State senate committee?

Mr. LOONEY. Yes, sir. I could not go on with the chairmanship because I had a difference of opinion with the national party.

Senator ELLENDER. In that connection, I recall very vividly the splendid brief that you sent here. I think it was in 1944. That was when the poll-tax issue was being debated by Congress. I had occasion to put that brief into the record and I distributed many copies of it throughout the country. It had good effect.

Mr. Looney, what have you to say as to the constitutionality of the bill that we are now considering?

Mr. LOONEY. I think that you might say the bill is even ultraunconstitutional, because in my opinion the right of hiring and the right of being hired are both natural rights.

Senator DONNELL. Do you have a prepared statement with you, Mr. Looney?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Would you be kind enough to proceed with that statement? The members of the committee will feel at liberty to interrogate, if you so desire. Would you prefer to complete your statement, or would you welcome interruptions?

Mr. LOONEY. It is perfectly all right with me whatever the chairman desires.

Senator DONNELL. You may read from your statement, or otherwise. If you want to, I might say that we will be pleased to incorporate your entire statement into the record, whether you read it or not. If that is agreeable to you, that may be done.

Mr. LOONEY. That is all right with me, Mr. Chairman.

Senator ELLENDER. Mr. Looney, a moment ago you mentioned "natural rights." What do you mean by that?

Mr. LOONEY. I mean the same thing that Thomas Jefferson meant when he wrote what is referred to in the Constitution as "certain unalienable rights." Upon those rights are life, liberty, and the pursuit of happiness, and the natural rights are the rights that the Creator has given us. They are inherent. Sometimes they are called by the courts "fundamental rights," and they are also called "basic rights," but the real title is "natural rights."

Senator DONNELL. Before you proceed further, Mr. Looney, I neglected to ask if you are a member of any bar association, and if so, which bar?

Mr. LOONEY. I was, but I dropped out of all of them. I do not take any more interest in bar associations.

Senator DONNELL. You were a member of an association?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Continue, Mr. Looney.

Senator ELLENDER. If I may interrupt, Mr. Looney, I would like to ask if you are still a member of the bar of Louisiana?

Mr. LOONEY. I am still a member of the bar of Louisiana. That is an integrated bar.

Senator ELLENDER. Which of those rights which you have just mentioned would you say, the FEPC bill violates?

Mr. LOONEY. Natural rights?

Senator ELLENDER. Yes.

Mr. LOONEY. Both the liberty and the pursuit of happiness.

Senator ELLENDER. Which of all of these rights would you consider the more essential, natural rights, or inalienable rights?

Mr. LOONEY. Undoubtedly, liberty is the most essential of all of those rights.

Senator ELLENDER. How about freedom of choice?

Mr. LOONEY. Freedom of choice is the first freedom. It is the freedom on which everything is based, you might say.

Senator ELLENDER. Would you explain that to the committee? How is that violated, and how would it be inconsistent with that freedom?

Mr. LOONEY. You might say that in a sense it violates the first amendment to the Constitution, the right of assembly. The right of assembly is nothing more than the right of association. That is given in one recent case where Justice Jackson said that among the rights protected by the first amendment were the economic rights.

Senator DONNELL. Do you have the citation?

Mr. LOONEY. I do not have that in this brief, but I could give it to you.

Senator DONNELL. Would you mind giving that to the clerk?

Mr. LOONEY. All right. I will bring it tomorrow. I believe I have that in my file.

Senator ELLENDER. Can you point out any specific provision in the Constitution that would be violated by the passage of this bill?

Mr. LOONEY. The Constitution is based, and the preamble states the purpose of that Constitution to be a more perfect union to be established, justice, and the next item was the issue of domestic tranquility. Of course, the pursuit of happiness has a great deal to do with domestic tranquility. If a man is denied the fundamental rights, necessarily that man is deprived of a certain amount of his happiness. You will find the definition of happiness that is given is more theological than it is legislative or judicial. There are statements in some of the labor acts that almost bear that out. Happiness is naturally the first pursuit of man. He wants to be at peace with his fellow man. If that association is forced on a man, naturally that would prevent him from being as contented as he would be if he were not subjected to any coercion of any sort. The fact of coercion itself is irritating, and a man cannot pursue happiness when he has other things that he knows will keep him from enjoying that natural happiness which a man is intended by the Creator to have.

Senator ELLENDER. In other words, instead of fostering domestic tranquility, it might affect it seriously?

Mr. LOONEY. Exactly. Just as is stated in the Declaration of Independence, the King of England incited domestic insurrections. There is no question on earth but where you force an employer to hire people that he does not want, and you force the association of people where some of those people may not be compatible, or the same sort of people, you are liable to have trouble. We have worked that trouble out to a great extent in the South. This is not in my statement, and I am departing from it, but I simply want to state that.

Senator DONNELL. You may use your own pleasure in departing from your statement, if you want to.

Mr. LOONEY. For instance, I will illustrate. Let us take the case of restaurants. We have restaurants in the city, and I particularly refer to Shreveport, La.

Senator DONNELL. How large is Shreveport?

Mr. LOONEY. It has a population of 100,000. It is the second city of Louisiana. We have restaurants there in which we have nobody but colored waiters. We have restaurants in which we have nobody but white girls. We have restaurants in which we have nobody but white men. We never mix them. The same thing applies to our system of

elevators in the large buildings in Louisiana. Some of the buildings have colored help. Some of the buildings have colored girls, and some have colored men. Others have white girls, and others have white men. The opportunity for both is equal, and the association is never mixed there, because whenever you do so you are necessarily going to have trouble from some source or another. You cannot expect people to take a position where they will accommodate themselves to conditions that they do not like. There has always been that segregation of the races in our part of the country, and it is a very small thing to respect those sentiments of the South, and not to disrupt the peaceful conditions that exist between the colored and the white men in Louisiana and the South. They have all of the advantages that the white man has. They can own property. Some of the property that has been owned in our section by colored people has produced great wealth on account of oil discovered. Nobody has passed any law or regulations taking those rights away from them. They have their own schools, doctors, sanatoriums, and whenever they call on the white people, they get help.

Senator ELLENDER. In connection with sanatoriums, is it true that in Louisiana we have quite a few hospitals that are maintained entirely by the State of Louisiana?

Mr. LOONEY. Yes, sir.

Senator ELLENDER. Is it not true that equal treatment is given to the colored, or the same as to the white?

Mr. LOONEY. That is true, but if they did not do it, and because that is a State matter, that would violate the Federal law. This is not a State matter. This is a private matter. This is a matter which the fourteenth amendment was not intended to affect.

Senator ELLENDER. The purpose of the question was to emphasize the manner and the method in which the colored people are treated in Louisiana in order to fortify the first statement that you made that there were not serious problems.

Mr. LOONEY. That is right.

Senator ELLENDER. That is, between the colored and the white.

Mr. LOONEY. The colored and the white wards in the hospital are separate and in other institutions in Louisiana, but they have more colored people, I understand, and a large percentage in New Orleans which are treated in public hospitals. A good proportion of the people in the county hospitals are colored. I have never heard of any righteous complaint. I have never heard of any complaints about discrimination.

Senator ELLENDER. Mr. Looney, to what extent, if any, would the clause in the Constitution, "to promote the general welfare," be violated by this bill, in your opinion?

Mr. LOONEY. The general welfare does not mean the class welfare. General welfare means the welfare of all of the people. Whenever you go to making any discriminatory law, that forces people to seek men because they belong to a class, or if it does not force them to take those men, it punishes them one way or another for refusing to take them. No matter the reason, it punishes them. There is doubt that that condition exists and always has existed, and will exist, and the people have their own method of personal selection, of their husbands and wives, and their schools, and of the people that work

for them, and so on. To be perfectly candid with everybody, I would not have a white servant in my home. I do not want anyone but colored servants. I have been raised with them from the cradle, and I would not know how to get along with white people as servants. We have been fortunate in being able to keep colored servants.

Senator ELLENDER. Mr. Looney, in your opinion, is the right of people to peacefully assemble, a right guaranteed them by the first amendment—and is that intended to give them freedom of association in fraternal, religious, and political matters?

Mr. LOONEY. That is my opinion, and it seems to be Justice Jackson's opinion. There is no doubt these associations, or social relations are referred to. I do not mean in the sense of society, but I mean that in the sense of natural dealings between man and man. All social relations are included in the idea of assembly. In fact, they have called popular legislative assemblies, or assembly bodies at times. In fact they have the general assembly, and in States they call their legislatures assemblies. In the mechanical world, we have what we call an assembly line. The word is distinctly associated with association.

Under the provisions of this bill, the employer is called upon to do certain things, and the employee is not. As I understand it, the employee is not called upon to do certain things.

Senator ELLENDER. What about the provision of equality? What do you have to say about that under the Constitution?

Mr. LOONEY. I do not think equality has anything to do with the right of a person to hire. That is a fundamental right. I would like to read from a statement that Justice Harlan made many years ago. The case referred to is *Adair v. United States*.

Senator DONNELL. What is the citation of that volume?

Mr. LOONEY. It is 208 United States.

This is the quotation that is made from Cooley on Torts.

A part of every man's civil rights is that he be left at liberty to refuse business relations with any person whatsoever, whether the refusal rests upon reason, or is the result of whim, caprice, prejudice, or malice; with his reasons neither the public nor the persons have any legal concern. It is also the right of the individual to have business relations with anyone with whom he can make contacts, and if he is wrongfully deprived of his right by others, he is entitled to redress.

Senator ELLENDER. Would not the principle of equality be further violated under this bill since the bill through a commission would force an employer to do certain things, and would not force the employee to do that? That is what I had in mind in asking the question a moment ago.

Mr. LOONEY. A man naturally is going to try to employ people in his business that will increase the property value of his business. Of course, private property has been recognized by all just countries as something that is necessary. I believe that here in this country we have made a special provision where we could protect all of the private property, and the rights of individual establishments, and the right of individuals to build up their properties when they can. That cannot be done if anything is forced on the man. If he is told to hire a man, and he does not want that man, and he does not want him perhaps because he is a Chinese, and he does not want him because he is a colored man, Jew, Catholic, Protestant, or anything else, you cannot

say that he is not able to refuse to take him. You cannot necessarily particularize as to what special things should be exempted.

For instance, let us illustrate that a man is running a Jewish newspaper, or a business in which he is employed and everybody in the establishment is a member of that religion. If somebody else comes in, and that man might cause trouble there, and he refuses to hire that man because he is not a member of that particular religion, it might be Jewish or Catholic or Protestant, then is he to be punished because he refused something that might injure his business very greatly? That right of hiring in one case recently, I believe was called *J. I. Case*—I do not believe I have it listed. That is *J. I. Case v. N. L. R. B.* (321 U. S., p. 335).

The Supreme Court said, "There is little left to individual agreement except the act of marrying." In other words, practically everything else has been taken control of by the Government in some form or another. I do not think there is any criticism to be made in the matter of wages, or in the matter of morale, or false arraignment, or anything of that sort. The very fact that private individuals should be protected in this right is also shown by the decision of the Supreme Court in the case of the United States in dealing with public matters. The Supreme Court said that in the case of *Perkins v. Lukens Steel Company* (310 U. S., p. 127), like private individuals and businesses, the Government enjoys unrestricted power to produce its own supplies, to determine those with whom it will deal, and to fix the prices and conditions upon which it will make needed purchases.

"Like private individuals" is the way that statement begins. Conceding that private individuals have the right to choose those with whom they will deal, that case is cited. That was a case where, as I recall it, the law prohibited the employment of aliens on certain public works, and the question was raised and the Supreme Court said that the Government was free to make such a discrimination, or prohibition, as that cited.

Senator ELLENDER. Proceed with your statement, Mr. Looney.

Mr. LOONEY. I would like to quote this because it is from the statutes of the United States. It is title 29, section 102 of the United States Code. It comes under the heading of Public Policy and Labor Matters. This is the statement:

Though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association.

Senator DONNELL. Is that a part of the United States Code, or is that the citation? In what connection does that appear?

Mr. LOONEY. That is under Public Policy and Labor Matters, title 29.

Senator DONNELL. What particular section is that?

Mr. LOONEY. Title 29, section 102 of the United States Code. I do not have the number of the act of Congress. Of course, that act is not limited. In the South, we are more interested in the question of the colored man, and the necessary forced association. It works both ways.

As I have stated, we have certain employments, and especially in the domestic field, where we rely entirely on colored people, and do not want white people. I say that the wages are not discriminatory, and for instance a colored man would be able to do most of the work

of cutting the grass and taking care of the yard, and got paid at a rate of about \$1 per hour, which is more than the Government has been fixing as requiring a minimum wage to be paid. Nobody has ever objected to that wage. They make their own contracts. People would ordinarily rather have colored help. We are used to colored people in the South, and we know how to get along with them. We would rather have them insofar as matters around the house are concerned, more than we would want white people in these employments.

Senator ELLENDER. Mr. Looney, do you know of any property rights in the State of Louisiana that are enjoyed by the white people that are not similarly enjoyed by the colored people?

Mr. LOONEY. No, sir. I know of no rights that they do not enjoy. They have all of the rights that the white people have, and if they can qualify, they have the right to vote. Of course, we put difficulties in the way of men who are not literate enough to vote, and there is no doubt that there are times when the power that is given to registrars is abused. There is no doubt of it at all.

Senator ELLENDER. Insofar as the law is concerned, it applies to both white and colored?

Mr. LOONEY. Yes, sir; there is no discrimination at all in the law. There are cases that sometimes come up in which the right of a colored man is advertised as having been abused, when it is a matter of fact that the right to vote has never been established, because he has not used the necessary methods to determine his right to vote. I am not going to question that at this time. Also, I am not going on to the question of the white primary. That is something that we have our own views on. I am bound to admit that under the law there are discriminations that are now made in certain States, and in our own State, which should permit, under the decisions of the Supreme Court, the Negroes the right to vote in our primaries. We have tried to get the legislature to make certain amendments in those laws, or make provisions to meet the requirements of the Supreme Court of the United States, but we have not been able to do it. Unfortunately, we have not had the best government in Louisiana.

Senator ELLENDER. Mr. Looney, you have been discussing property rights, and as you understand them under the Constitution, is not the right to choose employees an element of property rights as defined under the Constitution?

Mr. LOONEY. It is an element of the property right, but it is more than that. It is a personal right, because it does not necessarily mean that the employment of the colored person, under the law, should be made. The right is so personal, and so peculiarly personal, that it has been called the first freedom. I think that many years ago the poet Dante wrote an Essay on Freedom. He began it thus:

The human race when most free is best disposed. This will be clear if the principle of freedom be understood. Wherefore, be it known that the first principle of our freedom is freedom of choice.

We all concede the freedom of choice in reference to marriage, selection of associates, firms, and other business matters, but the idea of compelling a man to hire another man, if carried to its legitimate extreme, would be prohibiting a man from engaging in partnership, or refusing to take into partnership, a man who belonged to a different creed, or color, or nationality. That sort of thing is peculiarly

personal in that it would not be described as a property right, which it is in a sense, but they would not be limited to property rights guaranteed by the Constitution. They are rights protected by the ninth amendment; that is, the rights reserved to the people.

Senator DONNELL. Is that the ninth amendment, or the tenth amendment?

Mr. LOONEY. The ninth amendment is the one reserved to the people. The tenth amendment is the one as to the powers that are reserved to the States, and the people.

Senator DONNELL. That is right.

Mr. LOONEY. I would like to call attention to another thing. I know that the act is not limited to the colored people, but that is our chief interest.

There was a decision rendered in a Louisiana case which was one in which the original date applied to the segregation of races in trains, and it was considered by the Supreme Court of the United States.

Senator DONNELL. Do you have the citation? Is it 163 United States?

Mr. LOONEY. Yes, sir; it is on page 551. In that case the Supreme Court said that the legislature is powerless to eradicate racial institutions and to attempt to do so can only result in accentuating the difficulties of the present situation. Further, in the exercise of its judicial powers it must be reasonable in applying the law enacted in good faith, and not for annoyance or pressure of a particular class.

I have cited other things in which the Supreme Court, among other things, concurred in that.

I would also like to call attention to a statement of Justice Bradley in *Civil Rights cases*, 109 U. S. That is on pages 24 and 25. It states that assuming that social prejudices may be overcome by legislation, and that equality rights cannot be secured to the Negro except by a forced commingling of the races, and we cannot accept that proposition. At that time the Supreme Court was practically composed entirely of men who were friendly to the fourteenth amendment, and they were men who had been appointed from the States which did not secede, and therefore, it could be taken undoubtedly as a doctrine that was well established on one side of Mason and Dixon's line, as it was on the other.

I have quoted in here, also, from distinguished authors, in this short brief, and among others, I suppose that you have all heard of Father John Ryan, who was supposed to be a great authority on labor and other social matters.

One of his statements was to the effect that there can be no such prerogative as an unconditional right in a social relationship. As I have stated, what he meant by "social relationship" was not social equality, but it was a relationship that exists in the ordinary intercourse of man. Chief Justice Hughes in *NLRB v. Fan Steel Metal Corporation* (303, U. S., p. 259), speaks of the "normal right to select its employees."

Senator DONNELL. What case is that? I do not see that in your list of cases.

Mr. LOONEY. It is in the brief on page 6. There is a stenographic mistake. It gives that as No. 603, but it should be No. 303.

In the various studies that I have made on these subjects, I ran into different sorts of words, and the most concise statement on that is in a

book on ethics, which my boy used to study in college. It is a book which is used in many schools. This is the statement:

Certainly one workman is allowed to refuse his services to whatsoever employer, and one employer is allowed to refuse employment to whatsoever workmen.

In other words, there is an equality, and there is bound to be an equality in the law between the right to take, and the right to give. It is called, in philosophy and theology, commutative justice. Justice has been defined as a constant and perpetual effort to render to every man his due. Among these justices is commutative justice, which is the justice of exchange. There must be equality on the part of one side, and on the part of the other. Whenever you enact legislation that coerces that equality, you destroy that very thing. The equal protection of law, of course, means the protection of equal law.

Senator ELLENDER. That is what I had in mind a moment ago when I propounded the question as to this Commission being able to force an employer to do certain things, which was not applicable to employees.

Mr. LOONEY. That is correct. That would be slavery, an admitted slavery, if you tried to make an employee take employment where he did not want it. He could refuse because of religion, race, or anything else. On the other hand, there is an attempt to hamstring the employer, and not to permit him to have that same equality of choice that the employee has. Of course, this does not refer to contracts. This refers to the situation before a contract is made. After a contract is made, if for any reason that would violate that contract, that man would be discharged. That same argument could be made. In the contract, he would have the right to his employment, and if he were discharged for some irrelevant reason, that law could make provision for that situation.

Senator ELLENDER. Mr. Looney, I am sure you have made a careful study of the bill, and you are familiar with the segregation laws that have been on the statute books in our State, and in fact, all over the South, for many years. To what extent, in your opinion, would the Commission have the right to violate the segregation laws that have been on the statute books, and customs that have prevailed in the South since long before the Civil War?

Mr. LOONEY. Insofar as the segregation law is concerned, Senator, the segregation laws are not, as I understand it, anything but the law prohibiting the marriage or the living together between different races. I do not know of any other laws.

Senator ELLENDER. We have the so-called Jim Crow laws.

Mr. LOONEY. Those are laws that are already made. The separation in trains, hotels, and so forth, have already been passed on by the Supreme Court. Nobody would question those laws. There are certain laws that perhaps, you might say, the zoning regulations, the Supreme Court of the United States has held that when you are trying to confine a certain race to a certain section, that is invalid. That has already been passed on. That was about the only other segregation that I know in which races were affected.

Senator ELLENDER. It is your view that this law may be so administered by the Commission created under the act as to break down these customs that have prevailed in the South from time immemorial?

Mr. LOONEY. That would be tyrannical administration of it, and that could be done. In fact, I do not personally believe it.

Senator ELLENDER. It is not a question of belief, but would not this Commission have the power under the bill that we are now considering?

Mr. LOONEY. I do not know that. I could not go that far. I think that the acceptance of this theory would ultimately lead to a great many more evils than even this condition creates because the States undoubtedly would have the right to make their laws, and their laws might go so far as to affect a great many other social relationships.

Senator ELLENDER. You say that you would not be willing to go that far. The President, during the war, created the so-called FEPC, as you know, and the main purpose of that law or Executive order was to insure that there would be no discrimination in the employment of colored or white people, because of religion, and so forth; in fact, the same discrimination features described in the pending bill. And yet in the administration of the act, the Commission went so far as to create situations which had the tendency in the State of Maryland, let us say, to break down practices that had been in effect for many, many years. For instance, you had in a plant there similar facilities, and one was labeled for whites and the other for colored. The colored people objected to that, and they forced the employer, or the Commission forced the employer, to break the separation in these facilities and put them all into one. Certainly, if you read the Executive order, such an action by the Commission was far removed from the original intention of the President's order, but the Commission used the Executive order in such a way or administered it in such a way as to break down some of these segregation barriers that had been customs throughout the South for many years. Now, I am asking you if it is possible that this Commission could use this law in the same way so as to break down some of these barriers that have been prevailed in the South for so long and have existed as customs?

Mr. LOONEY. I do not concede that even this act would authorize them to do such things as that. If you make equal accommodations, you can make separate accommodations. Certainly, a person is not humiliated at all by being called a white or a colored person, if those signs are up. We have always had those situations, and also on railroad trains, where there are provisions made for the comfort of the colored people and the white people. Until the ladies began to so much of the smoking, we used to have a distinction made between the sections of the train as related to the smokers, and we still have that distinction made on the trains, as far as that is concerned, where the men are supposed to have their compartment, and the women theirs. I know that is very frequently violated. I do not think that is a matter of fact as to the invasions that these boards make on the liberties of the people, and they have a right to make that invasion under the law. They attempt to do things, and one of my great objections to these things is the same thing that Thomas Jefferson years ago said, that is, whenever you destroy the right of trial by jury and turn over to some external board the right to determine certain facts, you are destroying liberty. I know that of recent dates, there have been a great many of these laws made; what I hope is, that in the future, especially since the change in the alignment in legislative matters, that these things will be reconsidered. Of course, we are at present all in a state where normal conditions do not exist and will not exist for some time. We should not make those conditions more abnormal by enacting legislation like this that only cause disturbances. To a certain extent, this is

police power, and something that originally the Federal Government did possess. Gradually, the courts have said that this police power in the Federal Government does not exist.

Senator ELLENDER. In connection with the question that I asked you a few moments ago, would you refer to section 5 (a) (1) on line 19, referring to unlawful employment practices defined? It states:

To refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions or privileges of employment because of that individual's race, religion, color, national origin, or ancestry . . .

To what extent could that unlawful employment practice be used in order to again destroy certain customs that have prevailed in the South from time immemorial?

Mr. LOONEY. Legally, Senator, none. The word is to "discriminate." The courts have held that separate accommodations are not discrimination as long as they are equal. These things can be violated by these boards, because they take advantage of many circumstances. The average man when he applies this has not the money to carry on to the ultimate conclusion. That is, the Supreme Court, and they obey that rather than take chances.

Senator ELLENDER. Of course, you are assuming that the Supreme Court maintains its same attitude.

Mr. LOONEY. I assume that the Supreme Court of the United States is going to do its duty as to the natural rights of man. It affects them just as much as it does anybody else. Of course, there is a difference between justice and charity. Charity is a matter that the courts and the laws have nothing to do with. If a man wants to be extraordinarily charitable and provide service, for instance, that is his private business but he is not compelled by law, and never has been compelled by law, to be charitable, because that is a matter that is moral rather than legal or political. In fact, unfortunately most of these matters appear to be political rather than basic constitutional questions.

Senator DONNELL. Is there anything further, Mr. Looney?

Is there anything further that occurs to you that you might submit at this moment on the subject?

Mr. LOONEY. No, sir; I might mention that in my brief I had some other matters that I have not given before. I only wrote the brief last week after I got a telegram saying that I was supposed to file a brief. I wrote it in a hurry and did not put in it everything that I might have. I would like to call attention to the expression of others than the authorities that I have cited in my brief. For instance, one man who cannot be accused of any tendency that would not be entirely consistent with freedom is Thomas Paine, who wrote the American Crisis. He said:

"Tis dearness finally that gives everything its value, Heaven knows how to set a proper price upon its goods; and it would be strange indeed, if so celestial an article as freedom should not be highly rated.

In another place, speaking of the declaration of rights of the French General National Assembly, under which the National Assembly stated specifically—

The representatives of the people of France formed into a national assembly have resolved to set forth in solemn declaration, these natural inprescriptible and unalienable rights; * * *

Then there follows a description of those rights. Thomas Paine also said:

A declaration of rights is, by reciprocity, a declaration of duties also, and whatever is my right as a man, is also the right of another; and it becomes my duty to guarantee, as well as to possess.

That is naturally the equality of law, as commutative justice. You will find several quotations, as I have said, and I have not even had time to include those. Edmund Burke, who must be considered by the world to have been a believer in freedom, stated that—

The votes of a majority of the people * * * cannot alter the moral any more than they can alter the physical essence of things.

Charity is of the moral essence, and the right of a man to dispose of his own goods comes under character except those limitations of positive law which are necessary in reference to the property treatment of those with whom they are associated and have dealings, such as the regulation of wages, regulation of health, regulation of morals, and other things of that sort.

Senator DONNELL. Mr. Looney, you made mention that you are going to be here tomorrow, did you?

Mr. LOONEY. Yes, sir.

Senator DONNELL. I wonder if you desire to examine your statement which you have prepared and amplify it with these additional observations and quotations and make any other changes or suggestions that you want to, for inclusion with your statement. Would you like to do that?

Mr. LOONEY. Yes, sir.

Senator DONNELL. We would be glad to have your final statement on file tomorrow.

Mr. LOONEY. Thank you, Senator Donnell.

Senator DONNELL. Now, there are some questions that I would like to ask you. Have you finished your direct statement?

Mr. LOONEY. Practically.

Senator ELLENDER. As I understand, Mr. Chairman, Mr. Looney will be permitted to revise his statement, as well as his brief, and present it tomorrow. Also, the whole statement as well as the brief will be presented by him tomorrow, which will be incorporated in the record.

Senator DONNELL. That is correct.

Senator MURRAY. His present statement will not be incorporated?

Mr. LOONEY. I want that just as it is stated. I would like to add these few other remarks.

Senator DONNELL. The understanding is that the statement as submitted here today will be included in full, and such additions as he may desire will be likewise included.

Mr. Looney, I wanted to ask you a few questions. At the outset, in response to a question from Senator Ellender, you responded that in your opinion S. 984, to quote your language, would be ultraunconstitutional. I wonder if you could just give us succinctly your reasons? Could you tell me on the first ground why you think it is unconstitutional?

Mr. LOONEY. That is a natural right, and this is protected by the ninth amendment to the Constitution.

Senator DONNELL. What do you mean by "this"?

Mr. LOONEY. The right of hiring.

Senator DONNELL. That is a natural right and is protected by the ninth amendment to the Constitution of the United States?

Mr. LOONEY. Yes, sir.

Senator DONNELL. In order that the record may have that amendment in it, I will read that for the record at this point. The amendment is as follows:

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Mr. LOONEY. Also the fifth amendment provides—and I will qualify that in a way, after I state the provision that I am relying on—that the property shall not be taken for public use without compensation. This goes further than that and takes it for private use without compensation, which under no circumstances does it have authority for.

Senator DONNELL. Do you take the position that the restriction here in regard to the right of employment violate this portion of the fifth amendment? That is, prohibition against deprivation of liberty and property? That is, without due process of law?

Mr. LOONEY. The liberty and due process clause.

Senator DONNELL. You think that it does violate a portion of the fifth amendment?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Is it your thought that there is a natural right to the employer to hire whom he may want to hire?

Mr. LOONEY. Yes, sir.

Senator DONNELL. With respect to property, that inasmuch as the right of hiring or the right now to hire may involve the actual expenditure for operation of property—

Mr. LOONEY. And the value of his property.

Senator DONNELL. That any limitation on his right of hiring thereby involves a taking of that property without due process of law?

Mr. LOONEY. Yes, sir; and for private use.

Senator DONNELL. Is there any other provision of the Constitution that you deem to be violated by the bill S. 984?

Mr. LOONEY. No; I do not know that there is. The tenth amendment is the power of the people. What is exactly meant by the use of those powers, I do not know. The power is in the people. If it means the same thing as the preservation of rights, I do not know; but if it means the power of election, it would be effective. I take it that the ninth amendment and the tenth amendment are so interrelated that when a thing like that is done, it violates both of those amendments.

Senator DONNELL. The tenth amendment reads as follows:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Mr. LOONEY. Yes, sir.

Senator DONNELL. Mr. Looney, is there any other provision of the Constitution that you deem to be violated by S. 984?

Mr. LOONEY. No.

Senator DONNELL. You referred at the outset to the preamble. I take it that we agree that the preamble does not itself create law?

Mr. LOONEY. That is right.

Senator DONNELL. It is a mere declaration of the purpose of the Constitution, rather than the creation of the constitutional law; is that correct?

Mr. LOONEY. That is correct.

Senator DONNELL. That was decided in the case of *Massachusetts v. U. S.*?

Mr. LOONEY. That is right.

Senator DONNELL. Mr. Looney, is there any other provision that you think is violated in the Constitution or amendments by S. 984?

Mr. LOONEY. I do not think so.

Senator DONNELL. Mr. Looney, I wanted to ask you, also, in regard to the case of *Adair* which you cited, *Adair v. U. S.* (208 U. S., p. 173), where you quoted from Justice Harlan. Do you recall the facts of that case and in what connection you used the language?

Mr. LOONEY. That was a case where Congress had passed a law making it a violation of the law to fire a man because he joined a union. That is my recollection of it.

Senator DONNELL. I think your recollection is good. There is also a statement on page 179 to the effect that looking beyond the words of the statute to determine its value, we hold that there is no such connection between interstate commerce and the members in a labor organization as to authorize Congress to make it a crime against the United States as the agent of an interstate carrier to discharge an employee because of such membership on his part. The majority opinion concluded that this decision therefore restricted the question of validity of a particular provision in the act of Congress making it a crime against the United States as an agent or officer of the interstate carrier to discharge an employee because he is a member of a labor organization. I do not suppose that you have had the opportunity of seeing the brief filed before the committee on behalf of Mr. Charles H. Tuttle?

Mr. LOONEY. No, sir.

Senator DONNELL. He had a large part in the preparation of the New York act. Mr. Tuttle cites a number of cases on the matter of the constitutionality. He starts his discussion of that part with this language:

Opposition also voices the fact that the underlying principles embodied in this bill may be unconstitutional. But the recent course of judicial decisions has been such that it is scarcely conceivable that any court would attempt to nullify any portion of democracy's Act of the Covenants, the Bill of Rights itself. To do so would be close to declaring democracy itself unconstitutional.

He also cites the case of the *New Negro Alliance v. Sanitary Grocery Company* (203 U. S. 552), the Supreme Court said [*Ibid.*, Wheat.]—and then he gives their opinion. Are you familiar with that case, Mr. Looney?

Mr. LOONEY. I had occasion to examine that case in connection with a motor freight suit that I had, but I must admit that the facts are not clear in my mind.

Senator DONNELL. I refer you to the particular quotation that Mr. Tuttle uses with respect to his case, and if you think your recollection

is close enough on the case to justify a comment, I would be glad to have it. Otherwise, we will not expect you to do so without a re-examination of the case and then perhaps make a comment on it. I read from page 561:

The desire for fair and equitable conditions of employment on the part of persons of any race, color, or persuasion, and the removal of discriminations against them by reason of their race or religious beliefs, is quite as important to those concerned as fairness and equity in terms and conditions of employment can be to trade or craft unions, or any form of labor organization or association. Race discrimination by an employer may reasonably be deemed more unfair and less excusable than discrimination against workers on the ground of union affiliation.

Do you think your recollection of the case and the facts is sufficiently vivid at this time for you to comment?

Mr. LOONEY. I think that that was a matter of contract. I do not think it was a matter of discrimination, as I have stated; and I think that so far as the contract was concerned, there would be some discrimination.

Senator DONNELL. You referred to *J. I. Case Co.* (321 U. S.). You quoted language substantially to the effect that there is little left except the right of hiring.

Mr. LOONEY. Yes, sir.

Senator DONNELL. Do you draw your inference that this right of hiring still exists? That is, even though the other moorings and foundations have been swept out?

Mr. LOONEY. Yes, sir.

Senator DONNELL. I take it that your thought with respect to *Perkins v. Lukens Steel Company* (310 U. S., p. 127), in regard to the Government having the right to determine with whom it will deal—that language be preceded by language as to private individuals, employees of private individuals, and yet have a right to determine with whom they will deal?

Mr. LOONEY. That is right.

Senator DONNELL. I do not mean that you did not make your points perfectly clear, but I want to consolidate the points as I understood them. Mr. Tuttle cites various other cases, and I will not burden you with questions on those cases, but that will become the duty of the committee to consider; that is, unless you care to have the citations to look over.

Mr. LOONEY. I would like to have a copy of Mr. Tuttle's brief.

Senator DONNELL. We will be very glad to give you a copy.

Senator ELLENDER. As I understand it, the chairman will permit Mr. Looney to comment if he desires?

Senator DONNELL. He may file his comments with what he submits tomorrow.

Mr. Looney, you referred at the outset of your testimony to another constitutional provision, namely, the provision relating to the right of assembly. Do you take the position that this violates the right of assembly, or were you using that as an analogy?

Mr. LOONEY. I think that it violates the right of assembly. I think that "the right of assembly" is a very comprehensive phrase. It is not limited in that article that you have as to the right of petition, redress of grievances, and that is not all that assembly means. I refer you to a decision by Justice Jackson in which he states that it refers to economic matters as well as other matters.

Senator DONNELL. Are you referring to the first article, where the amendment provides substantially that Congress shall make no law abridging the right of the people to peaceably and amicably assemble?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Do you take the position that this legislation would violate that provision of the first amendment?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Would you mind elaborating on that point?

Mr. LOONEY. My idea of that is that "assembly" means "association." That is one of the fundamental rights, of course, and that is the right to organize. "The right to assembly," essentially means "the right to gather for some purpose." That means "gathering together," and that means "association." Association certainly is something that happens between employer and employee, and it is conceded that an employee does not have to associate himself with any employer. That would be slavery if you forced him to do that. It is, in a sense, a sort of servitude, if you coerce the employer to do the thing that the employee is relieved from doing. In that association, which I say is the right of assembly, they continue in those cases; and under every definition that the word might possibly be given, they could not be included in these amendments. It is just like the striking of the words "general welfare" in the Constitution.

Senator DONNELL. Just a minute. On the question of general welfare, I take it that you are referring to the contents of article I of section 8 of the Constitution, which reads:

The Congress shall have the power to levy and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States * * *

Do you agree with this view that the language of that quoted portion of section 8, article I, does not create an additional power to provide for the general welfare which creates the power to levy and collect taxes, duties, and excises for the purpose of providing for the general welfare?

Mr. LOONEY. I take the position that Justice Storey took years ago.

Senator DONNELL. The position of the Supreme Court has been in recent years as stated, has it not?

Mr. LOONEY. It is not as severe as that. There is very clear language to that effect in recent years on that proposition.

Senator DONNELL. Do you recall the language on that?

Mr. LOONEY. I recall that language, but I think that in recent decisions they have tried to stretch "general welfare."

Senator DONNELL. I am not undertaking to analyze, for the moment, those decisions, but there is that declaration.

Mr. LOONEY. Yes, sir.

Senator DONNELL. That was the position you stated that Justice Storey took years ago?

Mr. LOONEY. That words "general welfare" are also in the preamble.

Senator DONNELL. As you have indicated, that does not create law, but it suggests what the law should be?

Mr. LOONEY. That is right.

Senator DONNELL. It is a declaration of the particular purpose of the Constitution and might be used as stated, for the purpose of interpreting other parts of the Constitution?

Mr. LOONEY. That is correct.

Senator DONNELL. You refer to Justice Jackson as having given some economic aspect to this right of assembly, did you not?

Mr. LOONEY. I will get to that. I have that memorandum, but it is not here.

Senator DONNELL. Will you add that to what you file with us tomorrow?

Mr. LOONEY. Yes, sir.

Senator DONNELL. I suggest that your point with respect to assembly is one that I personally would suggest that you elaborate on a little more. I am still not clear as to the validity of it, nor am I undertaking to express an opinion as to the validity of the other points. I assume that the right of people to peaceably assemble means, ordinarily, the right to come together. That is, such as in public meetings, whether it be in churches, schools, on the streets, or wherever it may be, without interference with the general order and the order of the community; that is, rather than along the lines you have indicated. I am sure that the committee would be glad to have an elaboration of your views so that we would have a clearer picture before us in written form.

I have one or two other questions, Mr. Looney.

One of them is as to what you think the practical effects of S. 984 would be. You have lived a long time in Louisiana and have had wide experience. What do you think would be the practical effects in your part of the country if this bill were enacted into law by the Congress?

Mr. LOONEY. We do not have any great problems. There is no doubt on our part that you will find in both white and colored people some people who try to create trouble by going ahead and making these applications in places where they knew they were not wanted, and it is just like a great many of these troubles that have occurred in labor circles. Those troubles are not intended to be created by the law, and they are not intended to be created by sober and conservative labor leaders. There are a great many things that happen that are incited. We have had a stoppage of work on public roads, and they "cuss" at the people who had no contract with anybody, but they had refused to make it a union job. The head of the American Federation of Labor, who lives at Shreveport, when I asked him about the situation, told me nothing when I asked him what right or what grounds he had to go out there and interfere. He just grinned at me and did not give me any explanation as to why they had a right to do it. There are certain things that they would have a right to do. In certain labor disputes that right may be justified in the way of a picket. There was not any labor dispute at all in that case. That sort of thing is brought about by individuals who incite others to make applications. As I illustrated in the case of restaurants there, suppose a colored man goes to a restaurant that had only white girls.

He says that he wants a job. They tell him they cannot take him. When they tell him that it is on account of his race and sex that he was refused a job, that fellow may go right straight off and make a complaint to this Board and state that he has been refused for two reasons. This law says that a man should not be refused a job. You will find that those things are going to happen. What does it bring about? Everybody knows what those conditions create in the South. There

is a feeling that is very hard to express, and the people take the law into their own hands. That is an unfortunate situation, and instead of creating public order it brings about the disturbance of that domestic tranquillity that the Constitution originally intended to secure.

Senator DONNELL. Might I ask if you intend, in the case of the restaurant to which you refer, that the term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ 50 or more individuals? I am not directing your attention specifically to the number of 50, but the definition of the word "commerce" means trade, traffic, commerce, transportation, or communication among the several States. That is, between any State, Territory, or the District of Columbia or any Territory; or between points in the same State but through any point outside thereof. Do you think that in view of the restaurant illustration, that would be under the purview of this bill?

Mr. LOONEY. I will answer that this way: I do not think it would be under the purview of the bill, but I think it might be as broad as Senator Ellender stated, under the bill; because suppose that we have some beef that is shipped from such and such a place. This restaurant is using that beef. They bought it directly. That restaurant would undoubtedly be engaging in interstate commerce, according to some theories. Perhaps I should have said the elevator employees in buildings, because the courts have held that under certain circumstances those big buildings are engaged in interstate commerce. That factory that was mentioned previously would be clearly engaged in interstate commerce operations. Suppose we take the situation in some small town in Louisiana where there is a small-town factory branch or whatever it may be, but that factory is in a town of 5,000, we will say, and the factory employs 100 people. At the present time, they are all right. That factory is engaged in interstate commerce, and if this bill goes into effect, there will arise a time when they are going to need 50 more employees, and a certain number of colored people approach them and insist on employment.

Senator DONNELL. If the employers reject them on the ground of color, and so state, what would you regard the probable effect on the particular community in your State that would result from that sort of point being raised? The resulting situation is what we would like to have comment on.

Mr. LOONEY. The agitation would cause a good deal of trouble and perhaps even in the heat of the thing the trouble might be so great that somebody might suffer seriously. There might be a killing. Those things happen. As I say, there are certain relationships which we cannot control by provisions that are intended under the guise of being for the purpose of making everybody equal, rather than for the political effect. There are a good many of these laws here that cannot be justified as constitutional or on other grounds that were permitted during the war, and now that they have had a taste of those freedoms, a lot of the people want to continue them.

Senator DONNELL. Mr. Looney, I might mention, I think, in fairness to the proponents of the bill and Senator Ives here, who is thoroughly familiar with the bill—and if the gentleman by whom the bill was introduced, for himself and other Senators, will correct me if I incorrectly state the position of the proponents—I take it that

they regard the provision for compulsion in this bill as one which is to be read in connection with the mediation and conciliation provisions; and, inasmuch as mediation and conciliation are permitted under the bill, that it would be possible in the Southern States for the administrators of this law to use mediation and conciliation for a considerable period of time in order that the communities might become accustomed to the position of the law and that thereby there would not be an immediate forcing upon the communities of the compulsory provisions of the act.

Senator Ives, have I stated substantially your position on that?

Senator Ives. Well, as a matter of fact, Senator, the compulsory part applies to mediation. That is compulsory in the first instance, itself, to try to do it by mediation.

Here is one thing, Judge, that I want to ask you—

Senator DONNELL. Pardon me, Senator, if I might just continue. I just wanted to be sure if I were stating correctly the point that I was endeavoring to place before the judge; namely, that the proponents of the bill take the view that, by reason of these conciliation and mediation provisions—which, as you very well pointed out, are themselves compulsory—there is no necessity in some communities in the United States for the further compulsory provisions; that is, those by contempt proceedings in courts, to be invoked without thorough application of the conciliation and mediation provisions.

Is that a correct statement?

Senator Ives. Further than that, Senator, it is the desire and wish of all those sponsoring this legislation that that phase of compulsion should not be employed except in dire situations which cannot possibly be corrected in any other way.

This brings me to the question I wanted to ask the Judge. Judge, do you honestly think—your opinion will go quite a way with me—do you honestly think that in the Southern States, whites will refuse to work with the colored people? That is a fundamental question involved here.

Mr. LOONEY. The type of whites that would probably be the sort that would make the best employees would refuse to work.

Senator Ives. They would refuse?

Mr. LOONEY. Yes, sir.

Senator Ives. Do you think, Judge, under those circumstances, there is any way of bringing the thing into adjustment so that eventually they wouldn't refuse?

Mr. LOONEY. No, Senator. As I have stated when you weren't here, there is an equality of opportunity in the South. I stated here that in many instances we have white girls in one restaurant, colored men in another restaurant, white men in another.

The same way with the elevator operators and things like that. We prefer to employ colored people in our homes. We give colored people a preference when it comes to yard cleaning or cutting grass and all of that sort of thing. There are certain things that kind of belong to the colored people.

And another thing: They have all the other opportunities that the law provides them, and, as I stated, there is, in many instances, the deprivation on the part of registrars of the right of colored men to register. I believe in the white primary, but I also concede that

under the present laws for the white primary, they are violating those things which the Supreme Court of the United States held are violated when a Negro is refused his vote.

We have tried to make white primary laws that would comply with the Federal law, but we haven't been able to get the legislators of Louisiana to do it. Now that, in itself, shows you the attitude that is taken as between the white people—especially in the rural communities—and the colored people.

We could get, possibly, the city of New Orleans, we could get Shreveport, might get Baton Rouge and a few other places, might get the legislators there to agree to support the bills—in fact, some of them have—but there is that feeling that we are not going to let the Negro vote anyhow in lots of these communities. That is about the way they express it. That keeps Louisiana from having a white primary law that is legal and would be in compliance with the Federal laws today.

Now, I don't believe in that kind of thing at all; but the sentiment, the feeling, is there among the people.

Senator Ives. I don't want to direct any question to you personally as to how you personally feel; let's keep personalities out of it.

Mr. LOONEY. Well—

Senator Ives. What you personally feel is your own business.

Mr. LOONEY. Of course, what I personally feel wouldn't make much difference. I am not an employer of labor, except of colored women to work for us at home. As a lawyer, I have no interest in any businesses at all.

Senator Ives. What I wanted is your objective comment on this whole matter.

Senator DONNELL. Mr. Looney, before Senator Ives asked you these questions I had outlined as I understand it the view that the proponents of the bill take with respect to these ultimate compulsions. You have read the bill, of course, and you have studied it?

Mr. LOONEY. Yes, sir.

Senator DONNELL. And you are familiar with the fact that ultimately there is a provision for judicial review, which may be availed of under certain circumstances and may, in the event of a violation of the order of the court, result in contempt proceedings. I take it that we agree as to the law in that respect?

Mr. LOONEY. Yes, sir.

Senator DONNELL. Now, what I wanted to inquire of you is, what is your judgment as to the proper construction to be placed on this bill? I wanted to ask you whether you think it authorizes the use of conciliation and mediation for a period within the discretion of the Board before judicial proceedings shall be instituted, or whether there is some limitation implied in the act, within reasonable limits, at the conclusion of which mediation and conciliation are supposed to expire and other proceedings to take place.

Mr. LOONEY. Well, I will candidly state that I am not interested in that part of it. That is procedural. I think that the law itself is a violation of natural rights and is unconstitutional; and, so far as the procedural matters go, if it is part of an invalid law, it is just as invalid as anything else is. I don't approve of these boards, anyhow, where matters are supposedly left under the Constitution itself, the

fifth amendment, I believe it is, to trial by jury, which is the proper way.

Of course, you might ask, "Well, in the South who will convict under those circumstances? Therefore, we have to get an alien, foreign board to pass on these things."

Senator DONNELL. You are not afraid of that?

Mr. LOONEY. No, sir. Possibly, there wouldn't be a southern man on it. If there were, it would probably be some fellow in there because he thought he was getting a job.

Senator IVES. You understand, sir, do you not, that this question of discrimination in which a violation might occur, involves discrimination solely and exclusively because of race, color, or religion, and so forth?

Mr. LOONEY. Exactly.

Senator IVES. And for no other reason.

Mr. LOONEY. Yes, sir. I don't think, of course, people could invent other reasons. There would be hypocritical evasion of the law, maybe, in that way. But, as a matter of fact, the way that the law is presented is the reason for the objection that we have to it. It requires us to take a colored man, if there is a vacancy, as I understand it, if the only objectionable feature in regard to him is his color.

That will bring about distinction in practically every organization where it has been customary not to have them in their employ.

Now, we have, just as I noticed in the restaurants here yesterday when I came in—I went to the Occidental Restaurant. I noticed that they had white waiters, and they had colored men coming in removing the plates and things like that.

Well, that condition exists all through the South, too, that sort of thing; but the first people that would resent it if this law were passed would be the waiters in these places that have been associated to that extent with the colored people but not on equal terms.

There is that peculiar thing in human nature that makes men desire the things that they feel they particularly want on account of their social relationships and, as I have stated, social relationship doesn't mean society but it means the relationship between men and other men, in ordinary affairs.

Senator DONNELL. Mr. Looney, you have stated your judgment as to the practical effect and working of the bill in your own State. Have you had occasion to be in other parts of the South quite extensively also?

Mr. LOONEY. No, sir; I haven't been in other parts of the South much.

Senator DONNELL. I take it, from time to time you have been in other States?

Mr. LOONEY. Oh, yes.

Senator DONNELL. Georgia, Mississippi, and others. Do you care to express any opinion from your observation of those other States as to how you think it will work there, or would you prefer to confine your statement to Louisiana?

Mr. LOONEY. Well, I think it would work probably in Louisiana better than Texas. I think Texas would resent it more than Louisiana. Mississippi would be just about the same as Texas and Arkansas—Mississippi, I meant, would be about the same as Louisiana.

Now, I don't know much about the other States.

Senator DONNELL. You wouldn't be prepared to pass upon Georgia, for instance?

Mr. LOONEY. No, sir.

Senator DONNELL. Nor Florida?

Mr. LOONEY. No, nor even Alabama.

Senator DONNELL. Nor the Carolinas?

Mr. LOONEY. No, sir.

Senator DONNELL. Gentlemen, is there any further question from any member of the committee? If not, Mr. Looney, we are very much obliged to you, sir, for your testimony.

(Mr. Looney submitted the following augmented brief:)

BRIEF SUBMITTED BY FRANK J. LOONEY IN OPPOSITION TO THE BILL, ENTITLED "A BILL TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY"

"Justice is the constant and perpetual disposition to render every man his due."

The Constitution of the United States was formed "to establish justice."

Among the charges brought against the King of England in the Declaration of Independence we find this one:

"He has excited domestic insurrection among us."

The Constitution of the United States was ordained and established "In order to insure domestic tranquillity."

The Supreme Court of the United States (Taney) said almost a hundred years ago, "The Constitution was not formed merely to guard the States against danger from foreign nations, but mainly to secure union and harmony at home."

In the sixteenth letter of the Federalist, Alexander Hamilton speaks of "a Federal Government capable of . . . preserving the general tranquillity."

He continues, "The Government of the Union, like that of each State, must be able to address itself to the hopes and fears of individuals, and to attract to its support those passions which have the strongest influence upon the human heart."

When James Madison was President, more than a century and a quarter ago, the Committee of Commerce and Manufactures of the House of Representatives in a report said: "The inducements to industry in a free government are numerous and inviting. Effects are always in unison with the causes."

"The inducements consist in the certainty and security which every citizen enjoys of exercising exclusive jurisdiction over the creations of his genius, and the product of his labor."

For many years the Supreme Court has approved a decision by Justice Washington in 1823¹ as to privileges deemed to be fundamental which in 1899 the Supreme Court called "natural rights."

Justice Harlan, then whom there was no more staunch champion of the emancipated slaves, in a case decided in 1907,² cited Cooley on Torts, as follows:

"It is a part of every man's civil rights that he be left at liberty to refuse business relations with any person whatsoever, whether the refusal rest upon reason, or is the result of whim, caprice, prejudice, or malice. With his reasons neither the public nor the persons have any legal concern. It is also his right to have business relations with anyone with whom he can make contracts, and, if he is wrongfully deprived of this right by others, he is entitled to redress."

Justice Holmes, who might be called the advance apostle of the New Deal, while on the Supreme Court, said:

"Constitutions are intended to preserve practical and substantial rights, not to maintain theories."

¹ See the Preamble.

² *Ableman v. Booth* (21 How. (U. S.) 506, 507).

³ Debates in Congress, February 18, 1816.

⁴ *Corfield v. Coryell* (F. C. 8230).

⁵ *Hague v. O. I. O.* (507 U. S., at p. 511).

⁶ *Addis v. U. S.* (208 U. S., at p. 173).

⁷ *Davis v. Mills* (184 U. S., at p. 457).

Justice Frankfurter, who is certainly not unfriendly to New Deal theories, cited this case approvingly in a decision¹ rendered since the outbreak of World War II.

Chief Justice Hughes in 1937 spoke of liberty of contract as "liberty in a social organization which requires protection of law against the evils which menace the health, safety, morals, and welfare of the people."²

In this case are listed decisions as to hours of labor, wages, employers' liability, and "regulations designed to insure wholesome conditions of work and freedom from oppression"—not one of these questions the liberty of choice of employees.

We may not only concede that these decisions are within the Constitution, but go further. We may go further, and admit the right to fix prices on transported articles when transported by businesses with a public interest.

We will also concede the right of the State or of the United States to fix standards for public works.

We will agree with the recent utterance of the United States Supreme Court that "The authority of the Federal Government over interstate commerce does not differ in extent or character from that retained by the States over intra-state commerce."³

We agree unreservedly with the statement by the Supreme Court of the United States that the State or the United States has the right to provide what kind and character of labor shall be employed on public contracts.

The Supreme Court has well said: "Like private individuals and businesses, the Government enjoys the unrestricted power to produce its own supplies, to determine those with whom it will deal, and to fix the prices and conditions upon which it will make needed purchases."⁴ [Emphasis ours.]

In 1923, the Supreme Court of the United States, citing a number of its decisions, said: "It is the right 'long recognized,' of a trader engaged in an entirely private business, freely to exercise his own independent deal."⁵

In title 20, section 102, of the United States Code, we find under the heading "Public policy in labor matters declared," the statement "though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, etc."

The natural right of the employee is thus clearly stated, and in justice, as well as under the Constitution of the United States, it would violate due process of law to make a different rule for an employer, and to deny him the right and freedom "to decline to associate with his fellows" or to exercise the coequal right of selection of his associates.⁶

Fifty years ago, a Supreme Court with six Republican Justices sitting, held, through one of them, that separate railroad accommodations for white and colored were permissible, saying: "Legislation is powerless to eradicate racial instincts * * * and the attempt to do so can only result in accentuating the difficulties of the present situation."⁷

In this case the Court further said: "Every exercise of the police power must be reasonable, and extend only to such laws as are enacted in good faith for the promotion of the public good, and not for the annoyance or oppression of a particular class."⁸

It quoted the expression of Justice Bradley in a previous case: "It would be running the slavery argument into the ground to make it apply to every act of discrimination which a person might see fit to make as to the guests he will entertain or as to the people he will * * * deal with in other matters of intercourse or business."⁹

And again, "In determining the question of reasonableness it is at liberty to act with reference to the established usages, customs, and traditions of the people."¹⁰

And still again, "The argument also assumes that social prejudices may be overcome by legislation and that equal rights cannot be secured to the Negro except by an enforced commingling of the races. We cannot accept this proposition."¹¹

¹ *Patterson v. G. O. Co. v. Ashbury Park* (316 U. S., at p. 614).

² *West Coast Hotel Co. v. Parrish* (300 U. S., at p. 891).

³ *U. S. v. Rock Royal Co.* (267 U. S., at p. 569-570).

⁴ *Perkins v. Lukens Steel Co.* (310 U. S., at p. 127).

⁵ *Federal Trade Commission v. Raymond Bros., etc.* (263 U. S., p. 578).

⁶ *Plessy v. Ferguson* (163 U. S., at pp. 651, 648, 650, and 651).

⁷ *Civil Rights Cases* (109 U. S., at pp. 24-25).

On that conclusion we stand, "We cannot accept this proposition."

There can be no basis for a claim that the Civil War amendments created any powers that were not hitherto possessed by State or United States. The only effect of these amendments was to destroy discriminations.

The thirteenth amendment abolished slavery and involuntary servitude and was binding on both forms of government.

The fourteenth amendment imposed on States the recognition of citizenship of all United States citizens and forbade infringement of rights of such citizens, forbade the States depriving any person of life, liberty, or property without due process of law, and forbade denial to any person of equal protection of the law.

The fifteenth amendment restrained the States from denying the right to vote on account of race, color, or previous servitude.

In the period known as the Reconstruction Era, when the Supreme Court was forced to be supremely race conscious, President Lincoln's appointee, Justice Miller, as the organ of a unanimous Court, said of the fourteenth amendment:

"The most liberal advocates of the rights conferred by that amendment have contended for nothing more than that the rights of the citizen previously existing * * * are now placed under the protection of the Federal Government."¹¹

The right to employ citizen or alien, white man or free Negro, or slave with the master's consent, was never embarrassed by any law, but left entirely to the free will of the employer, and this right had never been questioned when the Civil War amendments were made part of the Constitution.

As long ago as 1852 the Supreme Court of the United States said, "The rule of 'respondent superior,' or that the master shall be civilly liable for the tortious acts of his servants, is of universal application. * * * Nothing but the most stringent enforcement of discipline, and the most exact and perfect obedience to every rule and order emanating from a superior, can ensure safety to life and property."¹²

Take away from any employer the right to determine whom he should employ and you deprive him of that freedom of selection on which alone responsibility must depend.

It is no answer to this to say that collective bargaining takes away this right, and that collective bargaining has been upheld by the Supreme Court. Collective bargaining in itself does not bring employees into a labor organization; in fact the Supreme Court has held that if a bargaining representative discriminates against nonunion members, the union "members may be enjoined from taking the benefit of such discriminatory action."

Even Justice Harlan, who dissented in the Civil Rights cases from the balance of the Court, said: "Whether one person will permit or maintain social relations with another is a matter with which Government has no concern."

The Reverend Jno. A. Ryan in an article on Labor, Catholic Encyclopedia, said: "There can be no such prerogative as an unconditional right to a social relation."

Everyone recognized the distinctiveness of the expression "social relations" and "social equality."

The first describes the ordinary relations which association brings about among men; the second is descriptive of a status in society.

In our early history Chief Justice Marshall held that "A contract is a compact between two or more parties"¹³ and the Supreme Court said in 1892, "The word 'compact' is generally used with reference to more formal and serious engagements than is usually implied in the term 'agreement'—covers all stipulations affecting the conduct or claims of the parties."¹⁴

The term "freedom of contract," it follows, means the right to "cover all stipulations."

Chief Justice Hughes in *NLRB v. Fansteel Metal Corp.* (303 U. S. 259), speaks of "the normal right to select its employees."

And only a valid law justified by custom; practical and not experimental; improving social relations, not subjecting them to political expedience, and securing domestic tranquillity can affect true freedom of contract.

I wish to quote, now from the author (Father Hill) of the book on Ethics, which was used for years in the Jesuit schools, and to submit that the quoted statement is incapable of misunderstanding. This is the quotation:

¹¹ *Bartemeyer v. Iowa* (85 U. S., at p. 183).

¹² *Philadelphia & Reading R. Co. v. Derby* (14 Howard, at pp. 486, 487).

¹³ *Steele v. L. & N. E. R.* (828 U. S. 192).

¹⁴ *Fletcher v. Peck* (6 Cranch, at p. 137).

¹⁵ *Va. v. Tenn.* (148 U. S., at p. 520).

"Certainly one workman is allowed to refuse his services to whatsoever employer, and one employer is allowed to refuse employment to whatsoever workman."

No theory can destroy the difference race and color impose and make personal contacts naturally unpleasant, tolerable even.

Seventy-five years ago, the Supreme Court said: "Consent is the very essence of a contract," and if there be compulsion there is no consent.

While for a century and a quarter after the independence of the States was proclaimed, there was general agreement that the Federal Government had no "police power," the Court invented one under the commerce clause, and like all weedy growths it has a stranglehold on the grain of good government. However, it has not as yet gone so far as to compel equality of racial relations under private contracts. Association is of the essence of assembly, for assembly is constituted through association of persons; and the right of assembly is guaranteed by the first amendment to the Constitution. An assembly for the purpose of pursuing any law object, and the carrying on of a legitimate business as such, must be as free in its choice of those who assemble as should a religious or other organization enjoying the privileges accorded by the Constitution.

The "police power" which the modern appointees of radical Presidents have found to be the friction of the commerce clause found its advanced flowering in the *Wilburn* case, decided by Justice Jackson, who is now American prosecutor of German war criminals, where it was held that a man could not cut "excess wheat" raised by him beyond his quota. But the same Justice Jackson said in the well-advertised *Fling Salute* case: "The very purpose of a bill of rights was to withdraw certain subjects from the vicissitudes of public controversy, to place them beyond the reach of majorities and officially to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights, may not be submitted to vote; they depend on the outcome of no elections."²¹ [Emphasis ours.] And again, "If there is any fixed star in our national constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein."²²

The right to choose employees, friends, associates, spouses, falls under the law of natural selection, a natural right, an unalienable right, a fundamental, "reserved" to man by the tenth amendment, and by the ninth "retained" to him.

Pope Plus X said: "The mutual relations between capital and labor must be determined by the laws of the strictest justice called commutative justice, supported however by Christian charity."

That the duty of charity is moral only is emphasized by Pope Leo XIII, in his encyclical "on the condition of the working classes" in this manner: "It is a duty to give to the indigent out of what remains over. Of what remaineth, give alms." It is a duty, not of justice (save in extreme cases), but of Christian charity—a duty not enforced by human law."

This is repeated in the encyclical of Pope Plus XI, in these words: "The putting of one's possessions to proper use, however, does not fall under this form of justice, but under certain other virtues and therefore it is 'A duty not enforced by courts of justice.'"

The last eight words are quoted from Pope Leo.

It might be asked what is meant by "this form of justice."

The sentence preceding the last quotation read: "That justice which is called commutative justice commands us faithfully to respect the possessions of others, not encroaching on the rights of another and thus exceeding the rights of ownership."

Each of these Popes teach as has been taught for centuries:

"The division of goods which is effected by private ownership is ordained by nature itself." Pope Plus XI.

"Private ownership is in accordance with the law of nature." Leo XIII.

We could repeat such statements from the encyclicals but since they are in strict accord with the commandments "Thou shalt not steal" and "Thou shalt not covet" we submit that proof enough has been shown.

Just as the Constitution declares that it was established to "promote the general welfare," we find in the theological authorities quoted the words "common good" which have the same meaning.

²¹ *Baker v. Norian* (70 U. S. (12 Wall.), at p. 157).

²² *West Virginia Bd. of Ed. v. Barnette* (310 U. S., at pp. 638, 642).

In neither lay nor religious teaching do we find authority for class legislation by positive or negative enactment, by direction or indirection, by ordering or by forbidding, and disguised though it be the FEPC Act is class legislation, for it is based on class discrimination which would be exercised by an owner in regard to his property. If legal and valid it could be extended to all other contracts, including the rental of houses or, to make it more evident, to apartments in a large apartment building, to domestic servants, and to membership in fraternal organizations.

It would operate so as to apply to long-established businesses, where only white have been employed, or where only Negroes are employed, and in either case the entry of an alien element would mean discordant disaster.

There are certain things which fall under justice and others under charity and the act of an employer in employing people that he did not want would be in the nature of an act of charity and the law cannot control this. We would refer the committee to the language of the preamble to the Constitution and the first paragraphs of the Declaration of Independence, which class us an unalienable right the pursuit of happiness and we would call attention to a statement of the old pagan philosopher Aristotle, who proclaimed: "He is free who is his own master" and to Aristotle's great disciple, St. Thomas Aquinas, who said: "Free choice is part of man's dignity" and who also wrote these words: "The more a thing is desired and loved, the more does its loss bring sorrow and pain. Now happiness is most desired and loved; therefore its loss brings greatest sorrow."

The brief filed by Mr. Tuttle on behalf of the proponents of Senate bill 934 cites quite a number of cases. In not one of these is the point at issue even touched. To illustrate:

On page 6 he cites *U. S. v. Orinshank* (62 U. S. 542, 553 (1875)). The opponents of this bill readily agree to the opening words of this citation which are: "The rights of life and personal liberty are the natural rights of man," and the subsequent statement: "The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these 'inalienable rights with which they were endowed by their Creator.' Sovereignty, for this purpose, rests alone with the State."

At the top of page 8 a New Jersey case entitled, "*Carroll v. Local 269*" (133 N. J. Eq. 144, 147), is cited as follows: "The right to earn a livelihood is a property right which is guaranteed in our country by the fifth and fourteenth amendments of the Federal Constitution and by the State constitution."

No one will take issue with this statement.

The next case cited on page 10 is *New Negro Alliance v. Sanitary Grocery Co.* (303 U. S. 552). The question in this case was whether or not the controversy involved or grew out of a labor dispute. The Court held that it did and denied an injunction against picketing but did not pretend to hold that the grocery company must employ colored help.

There are several State cases cited to which we do not refer.

On page 11 of the brief we find *Railway Mail Association v. Corsi* (326 U. S. 88). In this case the rights of an employer are not discussed but, on the contrary, the Court held that under the New York civil rights law a labor organization was subject to penalty for denying membership to a Negro. This finding was based on the fact that the organization held itself out "to represent the general business needs of the employees."

One page 94 of 320, U. S., is it generally agreed that the States have the right to make requirements of organizations operating under a corporate or associated form.

In *Steele v. Louisville & N. R. R. Co.* (323 U. S. 102), cited on page 12, the Court held that where a labor organization acted as the exclusive bargaining representative of railway firemen it was the duty of such organization not to discriminate against Negro firemen even though the ritual of the organization excluded Negroes from membership. It is readily seen that this case had nothing to do with the right of an employer. On the other hand, it bears out the contention made by the opponents of the FEPC bill in that it shows the sentiment between the white employees and the Negro employees of the railroad and the incompatibility that exists.

Also on page 12, the case of *Morgan v. Virginia* (328 U. S. 373) was cited. It was determined in this case that the law of the State of Virginia requiring separate accommodations for white and colored passengers could not be applied to interstate passengers since it pertained to commerce. This case was the latest decision of its nature. A hearing of it convinces us that the Supreme Court of the United States still recognizes the case of *Holl v. DeCuir* (66 U. S. 485), as binding law.

To quote from *Morgan v. Virginia*:

"The Deist case arose under a statute of Louisiana interpreted by the courts of that State and this Court to require public carriers 'to give all persons travelling in that State, upon the public conveyances employed in such business, equal rights and privileges in all parts of the conveyance, without distinction or discrimination on account of race or color' (p. 487). Damages were awarded against Hall, the representative of the operator of a Mississippi river steambot that traversed that river interstate from New Orleans to Vicksburg, for excluding in Louisiana the defendant in error, a colored person, from a cabin reserved for whites. This Court reversed for reason well stated in the words of Chief Justice Waite."

In a note on page 384 of *Morgan v. Virginia*, the Court said:

"If this statute can be enforced against those engaged in interstate commerce, it may be as well against those engaged in foreign; and the master of a ship clearing from New Orleans for Liverpool, having passengers on board, would be compelled to carry all, white and colored, in the same cabin during his passage down the river, or be subject to an action for damages, 'exemplary as well as actual,' by any one who felt himself aggrieved because he had been excluded on account of his color."

THE RIGHTS OF MAN

Thomas Paine, whose writings had so much to do with the success of the American Revolution, in his pamphlet *Rights of Man*, said:

"From these premises two or three certain conclusions will follow:

"First, that every civil right grows out of a natural right; or, in other words, is a natural right exchanged.

"Second, that civil power, properly considered as such, is made up of the aggregate of that class of the natural rights of man, which becomes defective in the individual in point of power, and answers not his purpose but when collected to a focus, becomes competent to the purpose of every one.

"Third, that the power produced by the aggregate of natural rights, imperfect in power in the individual, cannot be applied to invade the natural rights which are retained in that individual, and in which the power to execute is as perfect as the right itself."

The National Assembly of France, in its Declaration of the Rights of Man and of Citizens, made the following statements:

"The representatives of the people of France, formed into a National Assembly * * * have resolved to set forth, in a solemn declaration, these natural, imprescriptible, and unalienable rights:

"IV. Political liberty consists in the power of doing whatever does not injure another. The exercise of the natural rights of every man has no other limits than those which are necessary to secure to every other man the full exercise of the same rights; and these limits are determinable only by law.

"V. The law ought to prohibit only actions hurtful to society.

"VII. The right to property being inviolable and sacred no one ought to be deprived of it, except in cases of evident public necessity legally ascertained, and on condition of a previous just indemnity."

To return for an instant to Thomas Paine, the Deist, in his *Rights of Man*, he spoke of this French manifesto thus:

"A declaration of rights is, by reciprocity, a declaration of duties also. Whatever is my right as a man, is also the right of another; and it becomes my duty to guarantee, as well as to possess.

Edmund Burke, in his book "New Wigs and Old," volume 12, page 162, said:

"The votes of a majority of the people * * * cannot alter the moral any more than they can alter the physical essence of things."

And again in his *Treatise on the Property Laws* he wrote:

"Everybody is satisfied that a conservative and secured enjoyment of our natural rights is the great and ultimate purpose of civil society, and that therefore all forms whatsoever of government are only good as they are subservient to that purpose to which they are entirely subordinated."

And Thomas Paine in the pamphlet *The American Crisis* emphasized one of the things which come under the heading "Pursuit of happiness" in the following words:

"The dearness only that gives everything its value, Heaven knows how to set a proper price upon its goods; and it would be strange indeed, if so celestial an article as freedom should not be highly rated. Britain, with an army to enforce tyranny, has declared that she has a right (not only to tax but) 'to bind us in all cases whatsoever' and if being bound in that manner is not slavery, then there is no such thing as slavery upon earth. Even the expression is impious, for so unlimited a power can belong only in God."

Early in our history, Chief Justice Marshall, in *Ogden v. Saunders* (12 Wheat. 373, 374), made this clear statement in which he was joined by Judges Storey and Bayall:

"Individuals do not derive from government their right to contract, but bring that right with them into society; that obligation is not conferred on contracts by positive law, but is intrinsic. This results from the right which every man retains to acquire property, to dispose of that property according to his own judgment and to pledge himself for a future act. These rights are not given by society but are brought into it."

Chief Justice Taft, in *Wolff Packing Co. v. Court of Industrial Relations*, speaking of the Kansas Industrial Court Act, said:

"It curtails the right of the employer on the one hand and of the employee on the other to contract about his affairs. This is part of the liberty of the individual protected by the guaranty of the due process clause of the fourteenth amendment. While there is no such thing as absolute freedom of contract, and it is subject to a variety of restraints, they must not be arbitrary or unreasonable. Freedom is the general rule and restraint the exception."

And Justice Harlan said, in *Adair v. The United States*:

"The employer and employee have equality of right, and any legislation that disturbs that equality is an arbitrary interference with the liberty of contract which no government can justify in a free land."

In the case of *Buchanan v. Wortey* (245 U. S. 74), where an ordinance providing against disposal of property to other races than those which constituted a majority in the vicinity, the Court said:

"Property is more than the mere thing which a person owns. It is elementary that it includes the right to acquire, use, and dispose of it. The Constitution protects these essential attributes of property."

On pages 80 and 81 of the same case, Justice Day makes this statement:

"That there exists a serious and difficult problem arising from a feeling of race hostility which the law is powerless to control, and for which it must give a measure of consideration, may be freely admitted. But its solution cannot be promoted by depriving citizens of their constitutional rights and privileges."

In *Senn v. The Lapeer Protective Union* (301 U. S. 482), Judge Brandeis said:

"A hoped-for job is not property guaranteed by the Constitution."

In *Truax v. Corrigan* (257 U. S. 312), Chief Justice Taft, as the organ of the Court, said on page 320:

"The broad distinction between one's right to protection against a direct injury to one's fundamental property right by another who has no special relation to him and one's liability to another with whom he establishes a voluntary relation under a statute, is manifest upon its statement. * * * the legislative power of a State can only be exerted in subordination to the fundamental principles of right and justice."

And in the same suit he said: "Our whole system of law is predicated on the general fundamental principles of equality of application of the law," and also, "The Constitution was intended—its very purpose was—to prevent experimentation with the fundamental rights of the individual."

Justice Harlan, in *Adair v. The United States* (208 U. S. 161), at page 180 said: "We need scarcely repeat what this Court has more than once said, that the power to regulate interstate commerce, great and paramount as that power is, cannot be exerted in violation of any fundamental right secured by other provisions of the Constitution."

Then he cited *Gibbons v. Ogden* (9 Wheat. 1, 104), *Lottery case* (188 U. S. 321, 353).

In *United States Joint Traffic Association* (171 U. S. 505, at p. 571), the Court said:

"The power to regulate commerce has no limitation other than those prescribed in the Constitution. The power, however, does not carry with it the right to destroy or impair those limitations and guaranties which are also placed in the Constitution or in any of the amendments to that instrument."

The Court there cited *Monongahela Navigation Co. v. United States* (148 U. S. 312, 336); *Interstate Commerce Commission v. Brimson* (154 U. S. 447, 470).

In *Board of Education v. Barnette* (319 U. S. 686), Lincoln was quoted as follows:

"Must a Government of necessity be too strong for the liberties of its people, or too weak to maintain its own existence?"

And the Court went on to say:

"Assurance that rights are secure tends to diminish fear and jealousy of strong government, and by making us feel safe to live under it makes for its better support. Without promise of a Bill of Rights it is doubtful if our Constitution could have mustered enough strength to enable its ratification. To enforce those rights today is not to choose weak government over strong government. It is only to adhere as a means of strength to individual freedom of mind in preference to officially disciplined uniformity for which history indicates a disappointing and disastrous end.

In argument, counsel made the statement that Justice Jackson connected economic ends with the first amendment. In his concurring opinion in the case of *Douglas v. Jeannette* (310 U. S. 170), he said:

"In my view the first amendment assures the broadest tolerable exercise of free speech, free press, and free assembly not merely for religious purposes but for political, economic, scientific, news, or informational ends as well. [Italic ours.]

I am attaching to the original brief, pages from Case and Comment on Human Rights and the Law, by Hon. Edward S. Dore, associate justice, appellate division, Supreme Court of New York.

I respectfully submit that the fundamental, natural, intrinsic, and unalienable right of an employer to freely hire his employees should not be disturbed by legislation which would only tend to upset domestic tranquility.

Respectfully submitted.

FRANK J. LOONEY.

JULY 16, 1947.

HUMAN RIGHTS AND THE LAW

By Hon. Edward S. Dore, Associate Justice, appellate division, Supreme Court of New York, New York City, condensed from *Fordham Law Review*, March 1940)

In Sophocles' great drama, *Antigone*, we see a young girl standing alone before Creon, tyrant of Thebes. He asks if she dared transgress his decree. Antigone answers:

"Yea!—for not Zeus, I ween, proclaimed this thing;
Nor Justice, co-mate with the nether gods,
Nor she ordained men such unnatural laws!
Nor deemed I that thine edict had such force,
That thou, who are but mortal, couldst o'er-ride
The unwritten and unswerving laws of Heaven.
Not of today and yesterday are they,
But from everlasting * * *"

In his opening address before the International Tribunal at Nuremberg, Justice Robert H. Jackson, after outlining the defendants' organized crimes against humanity, asked:

"Must such wrongs either be ignored or redressed in hot blood? Is there no standard in the law for a deliberate and reasoned judgment on such conduct?"

"The charter of this tribunal evidences a faith that the law is not only to govern the conduct of little men, but that even rulers are, as Lord Chief Justice Coke put it to King James 'under God and the law.'"

Nearly 25 centuries separate these two pronouncements in time. They both rest on the same ultimate basis in thought. Both affirm natural law, the objective order of right and wrong binding alike on ruler and ruled. Both affirm that law ultimately rests on morals and morals on God. Ideas behind that basis of law I will endeavor to discuss.

That we deal with ideas does not make our discussion impractical. For man is above all mind. In human affairs it is mind that matters. Ideas do direct human life. All inventions are in their origin mere ideas—ideas about reality. So are governments. It was an idea in the mind of a French corporal that produced Na-

poison's empire. It was an idea burning almost alone in the mind of a German corporal that helped catapult a modern nation into nazism. It was an idea in the mind of a few great men in the Colonies that made the precious thing we call America. For the protection of our lives our liberties, and our persons, America is primarily an idea and secondarily a sector of geography. If the same sector of geography were informed with the ideas of an oriental despotism, it would be just that and cease to be America.

What Sophocles, writing about 460 B. C., had Antigone say to Creon did not die on Antigone's lips and only reappear on the lips of a modern jurist near the middle of the Twentieth century A. D. Before Sophocles gave the idea the imperishable beauty of his own poetic form, it had been found and refound by man; and in every intervening generation, it has persistently endured as a constant in man's legal and moral life. Such a constant, resting on the experience of over 25 centuries of recorded human history, is worthy of examination by men interested in law and human rights.

Plato expressed the idea when he said that law was an expression not of God's will but of God's intellect and since our intellect is a spark of Sovereign mind, intellect should have the sole share in the making of law. In his Republic he confided to philosophers the highest function so they may govern according to the eternal principles of justice.

Aristotle taught that it is of man's essence to be a free, rational, social being; that acts corresponding to man's essential nature are good, the opposite bad, not because law makes them so but because nature does; and that law is therefore essentially reason, a rule of reason for rational beings.

Cicero, in his *De Legibus*, eloquently describes natural law as right reason: "Of all these things respecting which learned men dispute there is none more important than clearly to understand that we are born for justice, and that right is founded not in opinion but in nature. There is indeed a true law, right reason, agreeing with nature and diffused among all, unchanging, everlasting, which calls to duty by commanding delects from wrong by forbidding. * * *

Cicero's expression of this concept profoundly influenced law. To Justinian and thinkers throughout the Middle Ages *ius naturale* was a group of principles of reason and justice that men could rationally comprehend.

To Augustine eternal law was divine reason governing the universe and natural law a participation therein, cognizable, however, by human reason as the order of creation for rational creatures.

St. Thomas Aquinas, following Aristotle and all the major minds of the west, taught that law is "an ordinance of reason made for the common good;" that natural law is "divine law revealed through natural reason"—participation *legis aeternae* in rational creature; and that the need of man to conform to natural law is merely that he conform to his own nature as a rational being. The essence of his definition of law is reason.

The medieval jurists and theologians, three centuries before Coke, taught that all government was subject to the principles of natural law. Gierke, in his *Political Theories of the Middle Ages*, says:

"Men supposed that before the state existed the *Lex Naturalis* already prevailed as an obligatory statute and that immediately or mediately from this flowed the rules of right to which the state owed even the possibility of its own rightful origin. And men also taught that the highest power on earth was subject to the rules of natural law. They stood above the Pope and above the emperor, above the ruler and above the sovereign people, nay, above the whole community of mortals."

Blackstone in his *Commentaries*, thus speaks of this same natural law:

"Man, considered as a creature, must necessarily be subject to the laws of his Creator. * * * This law of nature, being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times; no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original."

Edmund Burke, rejected the artificial theories of the eighteenth century and the French enlightenment as deforming, rather than illustrating, natural law. He accepted, however, the ethical tradition that man is determined to social and political life by his intellectual and moral nature; that government is therefore founded on the necessities of our human nature and as such expresses the mind of the authors of nature. In discussing Fox's East India bill, Burke said:

"The rights of man—that is to say, the natural rights of mankind—are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be

set up against it. If these natural rights are further affirmed and declared by express covenants, * * * they partake not only of the sanctity of the object, so secured, but of that solemn public faith itself, which secures an object of such importance. * * * The things secured by these instruments may * * * be very fitly called the chartered rights of man."

As old as man, this concept of law became the formal and factual foundation of our own American system in both its origins and in its development.

In our origins the founding fathers proclaimed the source of our human rights and the basis of our law in a solemn Declaration of principles and in an organic law giving effect to those principles. This is what they said in the Declaration:

"We hold these truths to be self-evident; That all men * * * are endowed by their Creator with certain unalienable Rights. * * * That to secure these Rights Governments are instituted among Men deriving their just powers from the consent of the governed."

By that solemn Declaration the men who made America rooted the ultimate defense of our human rights in a divine endowment. To them that truth was "self-evident." The reference to "just" powers of government shows acceptance of natural law limitations proscribing arbitrary power in any form. They thus accepted the thought I have outlined that law is ultimately founded not in man's mere subjective ideas but in nature, that the law of human nature is from its Author, and that, therefore, man has natural rights which he does not get from the State.

Senator DONNELL. The next witness is Mr. Paulsen Spence, president of the Spence Engineering Co., Inc., Walden, N. Y. Is Mr. Spence present?

Mr. Spence, just have a seat, sir. Will you state your name, your residence, your business and for whom you are appearing today?

STATEMENT OF PAULSEN SPENCE, PRESIDENT, SPENCE ENGINEERING CO., WALDEN, N. Y.

Mr. SPENCE. My name is Paulsen Spence. I live in Baton Rouge and in Walden, N. Y.

Senator DONNELL. Where do you spend the bulk of your time?

Mr. SPENCE. About half and half, sir.

Senator DONNELL. Baton Rouge, La., and Walden, N. Y. What is your business?

Mr. SPENCE. In Walden, N. Y., I am a manufacturer; and in Louisiana I am a farmer and railroad man.

Senator DONNELL. What type of farming do you engage in?

Mr. SPENCE. Cattle farming.

Senator DONNELL. And what type of railroad work?

Mr. SPENCE. Well, I am mixed up in a small, short-line railroad, hauling gravel.

Senator DONNELL. How long is that railroad?

Mr. SPENCE. Seventeen miles.

Senator DONNELL. It is operating between what points?

Mr. SPENCE. Between Slaughter, La., and Bluff Creek, La.

Senator Ives. Where is your legal residence?

Mr. SPENCE. Legal residence, Baton Rouge.

Senator DONNELL. Where were you born?

Mr. SPENCE. Baton Rouge.

Senator DONNELL. Do you mind telling us the year?

Mr. SPENCE. 1895.

Senator DONNELL. And how long did you live in Louisiana before you acquired the company in New York?

Mr. SPENCE. From 1895 to 1916.

Senator DONNELL. 1916?

Mr. SPENCE. 1916.

Senator DONNELL. Yes, sir. What was your educational background?

Mr. SPENCE. Well, I was educated in the country schools of Louisiana; Chamberlain Hunt Academy at Port Gibson, Miss., and at the Louisiana State University.

Senator DONNELL. Did you take a degree?

Mr. SPENCE. Mechanical engineering.

Senator DONNELL. Bachelor of science—mechanical engineering?

Mr. SPENCE. Yes, sir.

Senator DONNELL. And what did you do after you finished your work at school?

Mr. SPENCE. Well, I first came North and went to work for the Chalmers Motor Co. in Detroit, Mich.

Senator DONNELL. In what capacity?

Mr. SPENCE. Well, I would say an apprentice.

Senator DONNELL. Were you engaged in the mechanical department?

Mr. SPENCE. Well, I, as they called it in those days, served my time in the factory.

Senator DONNELL. That was in Detroit?

Mr. SPENCE. Yes, sir.

Senator DONNELL. And how long were you in Detroit?

Mr. SPENCE. I was in Detroit until 1920, except that I was out of Detroit about 2 years during the first war.

Senator DONNELL. Where did you serve in the war?

Mr. SPENCE. I served most of my time at Camp Custer, Mich.

Senator DONNELL. What was your rank?

Mr. SPENCE. First lieutenant, Quartermaster Corps.

Senator DONNELL. Then you came back to Detroit after your experience in the war?

Mr. SPENCE. Yes.

Senator DONNELL. How long did you stay in Detroit?

Mr. SPENCE. I stayed in Detroit until about 1920; then I moved to New York City. More specifically, East Orange, N. J., is where I lived and I have had my business in New York City.

Senator DONNELL. What was the business that you went into in New York City?

Mr. SPENCE. I was a manufacturer's agent.

Senator DONNELL. What did you handle?

Mr. SPENCE. I handled pressure-reducing valves and steam traps.

Senator DONNELL. You traveled over the country?

Mr. SPENCE. I traveled the country more or less; yes sir.

Senator DONNELL. In what part of the country did you travel?

Mr. SPENCE. The whole country; the whole United States.

Senator DONNELL. South of Mason and Dixon's line, and also north of Mason and Dixon's line?

Mr. SPENCE. Yes, sir.

Senator DONNELL. How far?

Mr. SPENCE. As far west as the Rocky Mountains.

Senator DONNELL. How long were you engaged in this line of business requiring travel?

Mr. SPENCE. Well, in 1926 I began manufacturing on my own; and in 1927 I moved my business to Walden, N. Y., where I have been ever since as far as my business is concerned; and then I moved back south in 1941.

Senator DONNELL. You say that you began manufacturing on your own in 1926. Was it this same type of equipment that you started to manufacture?

Mr. SPENCE. Yes, sir.

Senator DONNELL. The same type that you had been selling as manufacturer's agent?

Mr. SPENCE. Yes, sir.

Senator DONNELL. Did you employ white and colored labor in your plant?

Mr. SPENCE. Not in Walden, because there are no colored people in Walden; but in the South and on my plantation I hire colored people.

Senator DONNELL. Your labor in Walden was white, exclusively?

Mr. SPENCE. Yes, sir.

Senator DONNELL. How many people do you employ there?

Mr. SPENCE. About 120.

Senator DONNELL. Did you observe any discrimination there between white and colored or between—

Mr. SPENCE. Well, we haven't any colored people there and I didn't notice any discrimination of any kind; no, sir.

Senator DONNELL. Did you notice any on the ground of religion?

Mr. SPENCE. No, sir.

Senator DONNELL. Or of ancestry?

Mr. SPENCE. No, sir.

Senator DONNELL. Or as to national origin?

Mr. SPENCE. No, sir.

Senator DONNELL. Mr. Spence, you say you went back down to Louisiana in 1941?

Mr. SPENCE. Yes.

Senator DONNELL. And had you owned property down there all this time, too?

Mr. SPENCE. No; I bought property in Louisiana in 1941.

Senator DONNELL. What did you buy; a farm?

Mr. SPENCE. Yes, sir.

Senator DONNELL. Do you mind telling us how large a farm it is?

Mr. SPENCE. About 1,100 acres, located 10 miles east of the city of Baton Rouge.

Senator DONNELL. East of the city of Baton Rouge; how near is that to the Mississippi River?

Mr. SPENCE. Eleven and one-fourth miles.

Senator DONNELL. What is that? Bottom land?

Mr. SPENCE. No, sir; that is forest land—hardwood forest land.

Senator DONNELL. Have you been cutting timber there?

Mr. SPENCE. No; I have been practicing forestry and hog raising.

Senator DONNELL. Forestry and hog raising; yes, sir. You say you have had some colored labor there?

Mr. SPENCE. Yes, I have some colored people that worked with me ever since I started the place.

Senator DONNELL. White labor also?

Mr. SPENCE. Yes.

Senator DONNELL. How many colored people have you employed?

Mr. SPENCE. I have regularly employed four colored men and two white men.

Senator DONNELL. Working along side by side?

Mr. SPENCE. Well, not exactly side by side. A white man is the overseer and the other white man has charge of the stock. The colored men sort of do the work around the place of clearing, mending fences, plowing, and all the things that ordinarily have to be done around a farm.

Senator DONNELL. Have you studied this bill, S. 984?

Mr. SPENCE. Not specifically; no, sir.

Senator DONNELL. You understand the general nature of it and the principle of the bill?

Mr. SPENCE. Yes, sir.

Senator DONNELL. Are you prepared to give us your views with respect to the bill?

Mr. SPENCE. I am.

Senator DONNELL. Now, unless there is some question that you gentlemen would like to ask Mr. Spence at this moment—

Senator IVES. I will have a number to ask as he proceeds.

Senator DONNELL. Very well. Will you proceed.

Mr. SPENCE. I have prepared a statement which you gentlemen have; and, on account of the shortness of the time, I won't read it, but I would like to just comment a little further on two things that have already been said.

Senator DONNELL. In regard to the statement you have prepared, you are offering that for our record, I take it, to be filed?

Mr. SPENCE. Yes, sir.

Senator DONNELL. It will be received.

Senator IVES. Wait a minute. If he is going to pass up his statement, I have one or two things that I should like to comment on.

Senator DONNELL. Before that, I take it you have no objection to receiving the statement in the record?

Senator IVES. Oh, no.

Senator DONNELL. It will be received in the record and incorporated therein, to follow your testimony.

Senator IVES. I would like to get myself straight with Mr. Spence. I don't think you understand me at all.

Mr. SPENCE. Well, Senator, I voted for you a couple of times.

Senator IVES. I don't believe I perhaps understood you. Let's get so that we do understand each other, and know what we are doing here.

On page 2, at the bottom of the page there, you refer to a point. Do you want to read that? I want to comment. Don't get disturbed here; I am not going after you.

Mr. SPENCE. You can go after me just as hard as you want.

Senator IVES. I don't think you quite grasp what I am doing there. Just read that part beginning "Senator IVES is not fooling me."

Mr. SPENCE (reading):

Senator IVES is not fooling me in his great desire to help the colored people. In fact, I do not believe he is fooling very many of the colored people. If Senator IVES did not know that the Southern Senators would filibuster this bill to death,

I seriously doubt if he would even consider offering it. It is a pity to clutter up the legislative mill and waste the time of the Senators and the money of the taxpayers considering such trips.

Senator Ives. Go ahead with the next one.

Mr. Spence (continues reading):

I think Senator Ives' motives were best explained by an actual experience of mine. A few years ago I was acting as chauffeur for Hon. Albert L. Vreeland when he first ran for the Congress—

Senator DUNNELL. Where did he run for Congress? What State?

Mr. SPENCE. That was from New Jersey; from Newark, N. J., and East Orange. I don't know the district offhand. [Continuing:]

And it was his painful duty to address a Negro meeting. Knowing that I felt that the Negro had not advanced in the evolutionary process to the point where he was fitted to exercise the right of suffrage. I was not asked to attend the meeting! At I was allowed to sleep in the car. I was awakened by a loud-mouthed Negro saying:

"Dat man" (referring to Mayor Martens, the perennial mayor of East Orange, N. J.) 'ain't coming around here tonight. Dat mayor is too biggity. I know dat m'n. I marched in the parade when they incorporated this town. I know all about dat man. Dese Republicans say they for the colored man, and dese Democrats they say they for the colored man. When you get a Republican together with a Democrat where you can't hear what they say, what do they say? 'hey say, "To hell with the niggers."

Is that far enough?

Senator Ives. No; go ahead.

Mr. SPENCE. I am not much of a reader, Senator.

Senator Ives. You are doing all right. [Laughter.]

Mr. SPENCE (reading):

Now, going to the serious side of this matter, I think that most of those persons in the North who are sincere in their desire to help the colored man are putting the cart before the horse. They blame the Southern white man for the restrictions that have been placed on the Negro, but they seem to overlook the fact that it is the Negro who causes these restrictions and not the white man. Should there be any prejudice against a person simply because his skin is black? These prejudices are not generated because of the color of the Negro's skin. They are generated because of his actions.

When I first came North in 1916, after having been graduated by the LSU, I found practically no prejudice whatsoever against the Negroes. Today the situation in the North is entirely different. There are a few people who are unprejudiced against the Negro, and these are either people who have had no contact with them, or people who place themselves on the same level as the Negro, or politicians like Senator Ives who want the Negro's vote.

Senator Ives. All right; that is far enough. Now we will get busy. Thanks very much for reading it.

You are acquainted, are you not, Mr. Spence, with the New York statute?

Mr. SPENCE. I am.

Senator Ives. You know its workings in the State of New York?

Mr. SPENCE. Well, I wouldn't want to comment on that.

Senator Ives. I mean that you know that there has been no difficulty under it?

Mr. SPENCE. Well, I wouldn't want to comment on that.

Senator Ives. Well, I mean that that is what we are trying to find out here. If you do know of any difficulties, those are the things we want to know.

Mr. SPENCE. Well, I do know that Harlem is probably the most unlawful spot in this country. I know that it isn't safe for a white man of any kind, you or anybody else, to go into Harlem tonight.

Senator Ives. Wait a minutes, that hasn't anything to do—

Mr. SPENCE. Oh, it is generated by the same thing.

Senator Ives. Whether that be true or whether it not be true—and I doubt the truth of that, knowing a little bit about the situation in the city of New York, myself—

Mr. SPENCE. You have never heard of "mugging" in Harlem?

Senator Ives. I have heard all about Harlem. I know all about Harlem. I can tell you a few other places where the colored people do not predominate, where it is not always safe to go at night. That is not confined to the colored race any more than it is to some other folks in that kind of situation.

What I am driving at is that this bill that was passed in New York back in 1945 and became operative on July 1, 1945—in that year.

You have had no experience under that?

Mr. SPENCE. No; because we don't have any colored people in our community.

Senator Ives. You don't know anything about how it has been working in the State of New York at all?

Mr. SPENCE. No.

Senator Ives. Well, all right. Then I think perhaps, before you make a general criticism on what is being proposed here, it might be well for you to check on that legislation in the State of New York where you have one part of your business, and ascertain the thought of the people that have been affected by it.

It so happens that that bill was brought about through my sponsorship and I want to say this: You seem to have some serious doubts as to my purpose in sponsoring this legislation. You have a perfect right to express those doubts publicly or in any other place, but I want to tell you something. I learned a lot as a result of that temporary commission which was created in New York back in 1944 for the purpose of going into this whole matter and seeing what could be done toward bringing about a better relationship in employment between, not alone the colored people and the white people, but between the various nationalities and various religions and all aspects of our society where employment is concerned.

I was asked to take the chairmanship of that committee. I didn't want to take the chairmanship of that committee because I didn't think it was possible to solve that problem that way, presumably through legislative action. I didn't think it was possible to get 23 people representing all faiths, black and white, all nationalities, to come to any kind of an agreement on any type of legislation affecting this whole situation.

I thought, very properly—I did at the time—that as far as politics was concerned, it would probably be the end of me politically because I knew what dynamite there was there. But I figured that sometime or other I would have to bow out of politics—I thought I had to here a year ago—and that that was a very worthy thing upon which to make my departure. So with that—

Mr. SPENCE. Senator, may I interrupt you a minute? Is this a hearing in which I am supposed to be the witness or you?

Senator Ives. I am.

Mr. SPENCE. O. K.

Senator Ives. You just sit right there and listen to me. I am going to tell you something.

So I went ahead and, out of this thing, was evolved, out of this study and this investigation was evolved the statute in the State of New York.

Amazing as it may seem to you, sir, of those 23 people on that commission, every one signed that report. You had business, you had labor, you had all aspects of society in the State of New York represented on that.

That bill went into effect, as I said, on July 1, 1915, and has been operating 2 years. Under that bill, not a single cease-and-desist order had been issued to date. That means that no one has been haled before any court, let alone any jail sentences of any kind; and the feeling in the State of New York has immeasurably improved as a result of that.

Now, I didn't do that for votes. That is why I am telling you. And to indicate to you that I didn't expect any votes out of it and that, in all probability, I didn't get any votes out of it, those same districts of Harlem to which you are referring voted against me in the last election by 2 to 1. Therefore, if it were a question of votes where this legislation is concerned, I certainly wouldn't be interested in it, nor am I in that connection at all.

I am not going to get one single vote out of this, so far as I am concerned. Probably I will lose votes if I ever run for public office again; but that has nothing whatever to do with my attitude concerning this legislation. I believe in it. I believe fundamentally in it; and my belief came about through this long study and this long experience that I have had.

So, regardless of what you think about it—and I am not in any way challenging your motives—but regardless of what you may think about it, I want you to understand my thinking and that I am absolutely on the level in this thing and that I have no thought whatever of any political advantage.

As far as getting this particular legislation through the Congress is concerned, I hope that when it comes up for a vote it won't be filibustered; but I can assure you that, filibuster or no filibuster, I am still for this legislation.

Now, go ahead. Pardon me for the interruption.

Mr. SPENCE. All right, Senator. How about coming down to pay us a visit in Louisiana?

Senator Ives. I should be glad to. I have a very good friend that sits over on the other side. Maybe I can get an invitation.

Mr. SPENCE. I think if you had been there a little while you would find—I am speaking primarily from the point of view of the South—I think you would find that conditions in New York State are entirely different from conditions in the South.

Senator Ives. That, sir, is what we want to know about.

Mr. SPENCE. And that you can't use New York State as a criterion. There is one thing wrong in your premise on New York State, that it happens to be that the colored people in New York State are gathered in rather small communities; in a great portion of New York State

there are very few colored people, and the average white person is not affected by the law at all because they never come in contact with it, just as I have never come in contact with it.

Senator Ives. I think you will find it in the city of New York and the city of Buffalo and one or two other cities.

Mr. SPENCE. You have never been elected by the city of New York. You know that.

Senator Ives. I did pretty well in the city of New York.

Mr. SPENCE. But in the South we have an entirely different problem. Now I think, as I have tried to point out in my brief here, that you people—and I think you are sincere; I was very much impressed with what you said.

Senator Ives. All I wanted to do was to get your statement on me, your observation, which was unfair—

Mr. SPENCE. If I am unfair, I will withdraw that.

Senator Ives. I think you and I might be friends. Sometime I might be able to convert you.

Mr. SPENCE. No; you can't convert me. Let's forget that, because I am dealing with facts; you are dealing with fancy.

Senator Ives. Oh, no, I am not.

Mr. SPENCE. Because, actually, you don't know anything about colored people. You have come in contact with just a few of them and the colored people you have come in contact with are the high-class colored people which do not represent in any way the great bulk of the colored people that we have to deal with in the South.

Senator Ives. As a matter of fact, your statement there regarding me isn't correct, but I don't want to kill time going into that, so go ahead.

Senator DONNELL. Speaking of time, Mr. Spence, don't get alarmed when I announce that the committee will be in recess for a few minutes. We have a rule of the Senate of the United States which requires that this committee cannot continue in session while the Senate is in session, without consent. Promptly on the announcement that the Senate is in session, we will be in recess for a few minutes.

Mr. SPENCE. That is all right.

Senator DONNELL. That won't stop you from testifying after we resume.

Mr. SPENCE. You asked me whom I represented. I didn't tell you. I don't really represent anybody unless it is the colored people in the South.

Now, I love colored people. I have been around colored people, off and on, all my life. I was raised among them and I have been back among them intimately in the last 5 or 6 years.

The colored people in the South don't have anybody to speak for them. I wouldn't say that I am a spokesman for the colored people, but I just want to express the views that I think the colored person, the average colored person, in the South would tell you if you could get him to tell you what he actually thinks. Of course, that is one great problem, finding out what a colored person actually thinks. I don't think there is any man in the North and I doubt if there are very many in the South who can figure out just what a colored man is thinking, because he thinks so much faster than a white man can and keeps so far ahead of a white man that you never catch up with him.

But what this bill would do would cause a great deal of difficulty and dissension in the South. I mentioned in my brief here—I just did it for fun more than anything else.

Senator DONNELL. What page, Mr. Spence?

Mr. SPENCE. When I sent the telegram to Senator Ellender.

Senator DONNELL. What page is this?

Mr. SPENCE. I will find it, sir, in just a second.

Senator DONNELL. All right.

Mr. SPENCE. Page 9—I just asked the little girl that took my telegram over the telephone, I just kidded with her. I said, "Just how would you like to have a nice little colored girl working alongside of you?" Her answer, which I give there, was "I'd break her — neck."

Senator DONNELL. Where were you when you dictated the telegram?

Mr. SPENCE. I was in Baton Rouge.

Senator DONNELL. And this was a white woman, was it?

Mr. SPENCE. A white woman working in the Western Union at Baton Rouge.

Senator DONNELL. Did you volunteer to testify today?

Mr. SPENCE. I volunteered, sir.

Senator DONNELL. You were not requested by Senator Ellender to do so, sir?

Mr. SPENCE. No, sir.

Senator DONNELL. All right, sir; go ahead.

Mr. SPENCE. Now, you know that we have had a great deal of trouble in Louisiana among the railroad people, that I am more or less familiar with. It has been the practice of the railroads in Louisiana to use colored men for brakemen and firemen; and the white men decided some years ago that they were, you might say, going to "muscle in on this racket"—which is a good one—and so they had a great deal of trouble. In fact, some of the railroads—and I believe all the railroads now—have entirely stopped hiring colored help for trainmen and firemen just because they did have so much trouble between the white men and the colored people.

Senator DONNELL. What State?

Mr. SPENCE. That is the State of Louisiana.

Senator DONNELL. All right.

Mr. SPENCE. I refer particularly to the railroad known as the Gulf Coast Line and the branch of the Illinois Central known as the Yazoo & Mississippi Valley, because those are cases that I actually know of. And there have been a number of colored men who have lost their lives accidentally. The point that I am trying to make, want to make—

Senator DONNELL. You mean accidentally or is that—

Mr. SPENCE. Accidentally on purpose, you might say. I would prefer to have in the record "accidentally" but you can draw your own conclusions.

So this law would only create trouble for the colored people. It wouldn't help them in any way whatsoever, because, so far as I know, in my part of Louisiana there is no place where a colored man can fit in that he isn't hired and isn't paid good pay; and there is no trouble down there at all if we are left alone.

Now, before 1833, the relationship between the white people and the colored people was perfect. I was raised on a plantation in Louisiana and in my whole life—we have had no trouble with colored people. There has been no friction that I know of. Around Baton Rouge there is practically no trouble whatsoever.

All this agitation—the colored person, after all is said and done, is limited in his mental faculties—all this agitation just keeps him stirred up and he thinks he is going to get something and he finds he can't obtain it and it just causes trouble.

Now, another thing that this thing has done among the young colored people. These men that I spoke to you about that worked for me are all men over 50 years old and they are experts. It is really a pleasure to watch them work. They are really woodsmen. If they want to chop down a tree this size [indicating] they just take it down with one lick of the ax. They know just what they are doing. But as for the young Negroes, they are not trained. All this agitation and all this half-baked education has just ruined them to a point where they don't know how to do anything.

We are faced with a large number of those people that are not able to earn their living. They don't know how to do anything. Now, if we were in a position to make them go to work and make them learn to do something, they could take care of themselves. This kind of thing is not anything for the Federal Government to mix up with. It is purely a local matter. I would even hesitate to see the State mix up with it because, in our State, as Senator Ellender can tell you, we have entirely different conditions all over the State. I don't know of any State that has as many different kinds of communities as we have and different kinds of people.

Each community can solve its own problem. Now, in the Felicianas, where my wife's home is and where her father is a judge, they have 10 colored people to every white person; and, as you probably know, the average colored person has a mentality of about a 12-year-old child. Now, you wouldn't be in favor of turning loose a 12-year-old boy without any discipline at all. That is exactly what you would do if you relaxed your restrictions on the colored people. You have to keep them under control for their own good. In spite of these controls, they are in trouble among themselves constantly. They don't have much trouble with the white people, as I have said.

This whole situation can be best taken care of if entirely left alone. You northern people should stay out of it entirely. Just let us handle it and it will work itself out.

The colored man is progressing all the time, as I point out here. In the parish of East Baton Rouge, there are 8,000 white people that own their own homes, and there are 3,000 colored people; and that is just about the relationship of the population.

We have many prosperous Negroes in our community and we have many Negroes that are well thought of and we have many Negroes that are doing a good job. It is a matter that just should be left alone entirely.

Now, I would like to comment on this matter of constitutionality. I think the judge was so eloquent and clear that he was far beyond anything that I could say; but from a reading of this law—

Senator DONNELL. Are you referring to Mr. Looney?

Mr. SPENCE. Yes, sir.

Senator DONNELL. By the way, he stated that he is not a judge.

Mr. SPENCE. Well, he is called a judge in Louisiana, anyway.

Senator ELLENDER. Almost every lawyer is called a judge.

Mr. SPENCE. From the wording of this bill it is plainly based on the commerce clause. Now I know that in recent years the courts have taken the attitude that the commerce clause is all-inclusive; but I think if you would go back and read the history of the Constitutional Convention of 1887, you would find that the founders never had any such idea that the commerce clause meant anything but what it says, to regulate commerce among the several States.

Now, the whole object of the commerce clause was that at the time the Constitution was written the States were continually quarreling with each other over commerce and the object of the commerce clause was to set the Congress up as an umpire between the States.

If you go to the dictionary and get the definition of "commerce," "commerce" is not individual trade, it is broad trade over a large area. And the word "commerce" was used in that sense that it was the commerce of the State of New York and the State of Pennsylvania and because these States were always quarreling with each other. And the idea that the commerce clause was intended to stretch so far—

Senator DONNELL. The committee will be in recess for a few minutes.

(Short interval.)

Senator DONNELL. The committee will again be in session. Mr. Spence.

Mr. SPENCE. Well, the idea that the commerce clause was stretched far enough or could be stretched far enough to regulate as to whom a person could hire and whom he could not is simply absurd. I think we all can agree on one thing and that is that James Madison probably knew more about what the Constitution was, what the founders meant in the Constitution, than anybody else; and James Madison made it clear in one of his letters that was written, I think, in 1820 and recorded in the record of the Federal Convention of 1887 that the meaning of the commerce clause was a regulation of States and not of individuals. To take any other viewpoint would simply mean that the Congress, under the guise of regulating commerce, could regulate anything.

Some people seem to think that times in 1887 were different from now in that respect, but I would venture to say that George Washington, as he presided over the Constitutional Convention, didn't have a thing on his back that wasn't transported in interstate commerce, in the present-day accepted sense.

Senator DONNELL. You meant 1787?

Mr. SPENCE. 1787.

Senator DONNELL. I thought for a moment you were referring to the Interstate Commerce Commission, which was founded about 1887.

Mr. SPENCE. No, sir. I am speaking of the Constitutional Convention, 1787. And in those days, Daniel Boone's rifle was probably made in New England. The New England States shipped manufactured goods into the South and the South shipped raw materials into New England, and as far as interstate commerce was concerned, the

conditions were not particularly different then than now, except that we have more of it.

Regardless of what the present-day courts interpret the commerce clause as meaning and what you gentlemen interpret it as meaning, it seems perfectly clear that if the founders intended the commerce clause to give Congress power to regulate the actions of individuals, they wouldn't have written the Constitution; they would have just written the commerce clause and let it go at that, because it covered everything.

To take an illustration, take Bibles. The first amendment specifically says that Congress shall make no laws affecting religion or the free exercise thereof. Well, printing Bibles is a business; and under the commerce clause as it is interpreted in the present day, Congress can regulate the printing of Bibles, which is absolutely contrary to the first amendment.

Now it would seem to me—and I am digressing a little bit from our primary purpose here—but I would like to state, for myself, that I think that the best thing that the South or the Senate of the United States can do for this country within the next decade is to see to it that no one is confirmed as a judge of a Federal court unless he is absolutely qualified, and he should first qualify by knowing what the founders meant when they wrote the Constitution.

Now other people say that times have changed and the interpretation has to change with the times. That is rather foolish, because the Constitution itself provides for its own amending and if it is necessary to amend the Constitution—as I think it is in some respects—it should be amended according to the manner that the Constitution calls for.

Now, going back to the main purpose of this statement, I want you to know that so far as a person can be, I am a friend of the colored people. I have always tried to help the colored people. My family have always tried to help the colored people. My wife's family have always tried to help the colored people. This bill is not going to help the colored people in the South one iota. It is going to hurt them. It is going to cause them a great deal of discomfort. If it goes too far, to the extent where you send Federal troops into the South to enforce it—which is the only way it can be enforced—you are going to have bloodshed and plenty of it. I would even predict that we might have a second Civil War, because you don't know the temper of the South; and to try to make this bill effective in the South is just something that cannot be done. As I state, you might pass a bill making the Mississippi River run upstream and have just about as much success.

Senator DONNELL. Does that complete your statement?

Mr. SPENCE. Yes, sir.

Senator DONNELL. Senator Ellender, any questions?

Senator ELLENDER. No; no questions.

Senator DONNELL. Senator Ives?

Senator IVES. No.

Senator DONNELL. Thank you very much, Mr. Spence, for giving us the benefit of your views.

Now, Mr. T. Brady Saunders, president of the Miller Manufacturing Co., Richmond, Va.

(Mr. Spence submitted the following brief:)

**A STATEMENT BEFORE THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE BY
PAUL BEN SPENCE, JULY 10, 1947**

I am glad to have this opportunity of appearing before this honorable committee as I believe I can throw some light on this question that might be helpful in the consideration of the proposed legislation. I would like to rectify my background because I believe it would show that I am in a better position to speak on this matter than most people.

I was born in Baton Rouge, La. Both of my grandfathers were captains in the Union Army. I was reared by my maternal grandfather, a minister of the gospel who was captain of Company I of the Sixty-eighth Indiana Infantry, and an uncle who emigrated from Denmark in 1830.

The grandfather of whom I speak moved to Louisiana in 1873 and operated a large plantation southeast of Baton Rouge in addition to his duties as a minister.

I am frank to admit that I am prejudiced on this subject, because practically all white people who reside in the South for any length of time, regardless of their previous predilections, become prejudiced on this subject. On the other hand, my family and my wife's family have always tried to help the colored people in every way they could. In fact, my wife's family for five generations have been law-enforcement officers and judges in the Feliciana, and as recently as last week my honorable father-in-law, Judge H. H. Kilbourne, said to me, "As long as I am a judge, I am going to see to it that the colored people get a square deal."

I do not know the constitutional basis for this law. If it is based on the commerce clause, it is absurd because the commerce clause does not empower Congress to regulate the business affairs of individuals.

In my part of Louisiana up to the time that Mrs. Roosevelt and other pseudo-uplifters took a hand in the matter, the relationship between the white people and the colored people was very cordial, and the colored man was constantly improving his situation.

I am sorry to say that since the advent of the New Deal, relations between the colored people and the white people have deteriorated, and I believe that it can be safely said that no single person was ever more disliked by the white people of the South than the former President's wife.

I do not believe that the colored people have a whole lot of respect for her and her associates, because a colored person considers a white person who would come down to his level as being dirt under his feet. This is best illustrated by a little story of the colored woman who went North to work and, while serving as a washwoman for a certain white family, was invited to eat dinner with the family. The head of the house said to her: "I bet your white people down South never asked you to eat dinner with them." She replied: "No, suh; my white folks was gentlemen."

Senator Ives is not fooling me in his great desire to help the colored people. In fact, I do not believe he is fooling very many of the colored people. If Senator Ives did not know that the southern Senators would filibuster this bill to death, I seriously doubt if he would even consider offering it. It is a ploy to clutter up the legislative mill and waste the time of the Senators and the money of the taxpayers considering such tripe.

I think Senator Ives' motives were best explained by an actual experience of mine. A few years ago I was acting as chauffeur for Hon. Albert L. Vreeland when he first ran for the Congress, and it was his painful duty to address a Negro meeting. Knowing that I felt that the Negro had not advanced in the evolutionary process to the point where he was fitted to exercise the right of suffrage, I was not asked to attend the meeting but I was allowed to sleep in the car. I was awakened by a loud-mouthed Negro saying:

"Dat man"—referring to Mayor Martens, the perennial mayor of East Orange, N. J.—"ain't coming around here tonight. Dat mayor is too biggety. I know dat man. I marched in the 'peerade' when they incorporated this town. I know all about that man. 'Dese' Republicans say they for the colored man, and 'dese' Democrats they say they for the colored man. When you get a Republican together with a Democrat where you can't hear what they say, what do they say? They say, 'To hell with the niggers.'"

Now, going to the serious side of this matter, I think that most of those persons in the North who are sincere in their desire to help the colored man are putting the cart before the horse. They blame the southern white man for the restrictions that have been placed on the Negro, but they seem to overlook the fact that it is the Negro who causes these restrictions and not the white man. Should there be any prejudice against a person simply because his skin is black? These prejudices are not generated because of the color of the Negro's skin. They are generated because of his actions.

When I first came North in 1910, after having been graduated by the LSU, I found practically no prejudice whatsoever against the Negroes. Today the situation in the North is entirely different. There are a few people who are unprejudiced against the Negro, and these are either people who have had no contact with them, or people who place themselves on the same level as the Negro, or politicians like Senator Ives who want the Negro's vote.

A policeman in New York told me a year or so ago that "if the Little Flower would turn us loose, we would clean up Harlem in a couple of hours."

The Good Book says, "Thou hypocrite, first remove the beam out of thine own eye, then thou shalt see clearly to cast the mote out of thy brother's eye." It seems to me that a Senator from New York has a lot of gall offering a bill of this kind when Harlem is notoriously the most unlawful spot in the Nation. I would think that if Governor Dewey wants to be President and is going to clean up the South, he should get some practice cleaning up Harlem.

I am bringing this all out to show that wherever the Negro congregates in large numbers, prejudices against him grow up automatically where no prejudices existed before; and that, almost without exception, any person coming to the South, whether they come from the north of the United States or from the north of Europe, soon acquire the same prejudices as those held by the native southerner. These prejudices are the result of practical experience and no law or law enforcement under heaven can change them. Anyone who sponsors such a bill as the FEPC is either purposely or unwittingly playing the game of Joe Stalin, because the one thing Stalin wants to do in this country is to stir up trouble; and those who sponsor this bill are accomplishing nothing except to stir up trouble.

I said a while ago that those of the North who are sincere in their desire to help the Negro were putting the cart before the horse. What I mean by this is that they should not attack the white man. They should concentrate on trying to help the Negro. This brings us to what is wrong with the Negro.

In the first place, the white man, especially those of Teutonic origin, on which the laws and customs of this Nation are based, have had at least 10,000 years' experience in civilization, and the Anglo-Saxons have had hundreds of years' experience of self-government. On the other hand, the Negro has had less than 300 years' contact with civilization, and some people want to place them on an equality with white people. It seems to me that instead of feeling so sorry for the colored man, he should be urged to get down on his knees and thank God that his forebears were not fleet enough of foot to evade the slave trader because the worst-off Negro in America is far better off than his African cousins.

A Negro soldier living on my wife's uncle's plantation who was stationed in Africa wrote back to his wife and said: "Honey, don't you let anybody make you believe you came from those people."

In spite of everything that is said to the contrary, the Negro enjoys a large portion of American freedoms. This talk of a Negro being held down economically in the South is just so much bushwah. In East Baton Rouge Parish we have many prosperous Negroes. In that parish about 8,000 white families own their own homes and about 3,000 colored families own their own homes. This is almost exactly in proportion to the population of each race. Many of these homes owned by colored people, while not being pretentious, are roomy, comfortable, and well kept. Many Negroes in our community have earned the respect of everybody. In fact, all that a Negro needs to do is to be law abiding, respectable, honest, and attend to his own business and white people will do everything they can to help him.

I wish to make it clear that there are many exceptions to what I am about to mention. In fact, out of the thirteen-million-odd Negroes in the United States, I would say that there are possibly 500,000 about whom my remarks do not refer. One would feel sorry for these exceptions were it not for the fact that, on the whole, they make no effort whatsoever to really help the fellow members of their race. In fact, the average colored person has plenty to say about the "high-falutin' nigger."

I would say, offhanded, that the average white person up North knows nothing about Negroes, and there are few white people in the South who know very much more, because a Negro is a complete enigma.

The average Negro is dirty. He does not keep his person clean and his habits are not clean. For example, few Negroes are allowed to milk cows for the simple reason that whenever a Negro milks a cow, he splits on his hands.

A substantial portion of the Negroes are affected with venereal diseases. Syphilis is rampant among them. In fact, they consider it a great joke when one is "bit by Fido." If Senator Ives were successful in putting his bill through and could find enough Federal troops to enforce it, he would succeed in barring white people from using public conveniences because no self-respecting white woman would use a toilet that had been used by a Negro and no person familiar with these conditions would blame her.

Now the next thing wrong with the Negro is that he is a congenital liar. The truth is just not in him. It would be rather amusing to a southerner to watch Senator Ives run a plantation in the South if he depended upon a Negro as a manager. If a Negro can lie so good that a southerner will believe him, what would happen to the unintelligent?

The Negro is completely unreliable. One can never depend upon a Negro to show up when he is supposed to and he can invent the most plausible excuses for his lack of appearance.

Whereas there are a few Negroes who love animals and can be depended upon to take care of them, the great majority are, by nature, sadists who think nothing of torturing animals or allowing them to suffer, for example, from lack of water.

Now the next thing is that there are relatively few Negroes who do not have sticky fingers. In fact, if, under Senator Ives' bill, a bank were forced to hire a Negro teller, they would have to nail down everything in the bank because, no matter how hard they try, there are few Negroes who can resist the temptation to steal.

The Negro is further handicapped by the fact that he will not work for another Negro. This was true in the last war where the Negro officers were a complete failure. The average Negro wants to work for a white man. He wants to work for a white man he respects and when someone puts a Negro over him, he will say, "I am not going to pay any attention to him because he is a nigger just like I am."

Likewise, I doubt if there is a white man in the whole South who would work under a Negro. Under Senator Ives' bill a Negro could be advanced to the right side of a locomotive cab. I would like him to find a white fireman who would fire for a Negro engineer.

The Negro is further handicapped by the fact that he has practically no mechanical aptitude, and figures such as are used by a bookkeeper are a complete mystery to him.

I do not think it is necessary to put much emphasis on the fact that the Negro is not an immoral person, but rather an amoral person. I doubt if the average Negro of either sex has morals much different from Falla. On my wife's uncle's plantation there is a Negro woman with 12 children, no 2 having the same papa. When one refers to a Negro as being a "—" the chances are 25 out of 26 that he is stating a fact; and yet the honorable Senator from New York wants to make these half-civilized people our equals. They may be his equal, but they are not mine.

It is apparent that Senator Ives and these other pseudo-uplifters are not familiar with history, especially the history of the South following the dark days of the Civil War. I would suggest that he read the history of those times before he tries to get this bill passed. He apparently is unaware of the fact that, for a good many years after the Civil War, Yankee soldiers were stationed all through the South with the express purpose of keeping the bottom rail on top. The ridiculous part of it is that most of these Yankee soldiers, after they had been in the South any length of time, instead of regulating the white man, helped the white man regulate the Negro. The very fact that the one-armed Confederate soldier returned from the Civil War, went to work and built the South back again, is eloquent proof of the superiority of the white man. If Senator Ives thinks he could enforce the FEPC in the South, he just doesn't know anything about the South. What he is actually doing is fomenting another Civil War. All students of military history agree that had Stonewall Jackson not been accidentally killed, he would have won the battle of Gettysburg and captured Washington and ended the Civil War. This time we are going to be a little more careful to be sure that our Stonewall Jackson is not accidentally killed.

Unless Senator Ives knows the temper of the average northern white man hotter than I do, I think that he is going to have an awfully hard time recruiting an army to force the Negro down the southern white man's throat.

So far as I know, the southern Negro has no spokesman because most people speaking for him are either trying to exploit their race for pecuniary gain or for political purposes. I believe that I can safely say to you that there are few Negroes in the South who would want to see the FEPC become a law because they know it would mean that, if any real attempt was made to enforce this law, thousands of them would be assassinated.

After I dictated a telegram to Senator Ellender recently, I asked the young lady who took my telegram how she would like to have a nice little colored girl working alongside of her. Her answer was: "I'd break her — neck." And that is exactly what would happen if any real attempt was made to enforce this law.

Anyone familiar with railroading, as I am, knows that there are many engineers who would think no more of knocking a smart-necked Negro fireman off a locomotive than I would shooting a rattlesnake.

As I have already stated, any Negro who lives in the South, tends to his own business, stays in his place, observes some of the elementary rules of ethics, has no trouble getting along whatsoever. This committee should know that no other kind of Negro can live in the South, and a law requiring the Mississippi River to run upstream would be easier to enforce than the FEPC.

This bill would only add to another problem which has developed in the South since 1933. Up to that time young Negroes, knowing that they had to earn their own living, learned a useful trade. Since all this pampering of the Negroes came into being, the young ones have taken full advantage of it and the South is faced with a large group of these people who are unable to earn their own living. One of the main reasons for this is that the young Negroes are so busy seeking equality that they do not have time to learn a trade, and this bill would tend to aggravate this situation.

A great statesman told us "that government governs best that governs least." The record of the Federal Convention of 1787 clearly indicates that the primary function of the Federal Government is to present a common front to the outside world and to prevent the States from squabbling among themselves over commerce. The founders never intended the Federal Government to stick its nose into the affairs of citizens, especially whom they should and should not employ.

It seems to me that, at the present time, the Federal Government has its hands full dealing with Uncle Joe. I submit that it would be more profitable to all, including the Negroes, if it concentrated on this immediate problem instead of wasting its time and energy trying to do something that States can do better.

The Republican Party has pledged itself to reduce the expenses of government; yet a Republican offers this bill that would send swarms of officers to harass our people, and eat out their substance.

Senator Ives and those who wish to elevate the Negro to a place alongside the white man apparently do not believe in the Bible because, according to Genesis IX, 25, "Cursed be Canaan; a servant of servants shall he be unto his brethren."

There are some who are so ignorant as to believe that the wording of the Declaration of Independence, "All men are created equal," refers to Negroes. We all know that men are not created equal and that the expression merely means equal before the law, which is exactly the attitude of most southern judges, as illustrated by Judge Kilbourne. That the expression meant Negroes were equal to white men is absurd for the simple reason that the author and many of the signers of the Declaration of Independence were slaveholders. Furthermore, the Constitution itself takes this into consideration when, in section 3 of article I, it specifically states:

"Representatives and direct taxes shall be apportioned among the several states, which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons."

The Negro has not advanced to a point where he can take his place alongside the white man. He has many hard lessons to learn and it will take thousands of years to learn them. Ordinary education, as given to white children, is entirely inadequate for the Negro's needs as he needs training more along the

lines of Christian ethics than he needs reading and writing. I have already stated that arithmetic is Greek to him. I do not wish to infer that I am against the Negro's receiving elementary education but, in the case of most Negroes, "A little learning is a dangerous thing."

I do not know how he is going to get this training in Christian ethics unless he gets it through his church because I believe those few Negro preachers who are humble and sincere can do their race more good than anyone else. People really wishing to help the Negro should encourage these men, including helping to educate them.

The best way to handle the Negro situation in this country is for the Federal Government to stay out of it entirely. If left to themselves, the States and the citizens thereof will assist the Negro to continue his march of progress which was interrupted in 1833.

Gentlemen, we have a very serious problem in the South. If left alone, we can solve it. If you insist on meddling, I warn you that thousands of Negroes and hundreds of white people are going to lose their lives.

The Negro has a definite place in our society and, when not confused by uplifters, is probably the happiest member of it. It can be reiterated that this proposed bill would merely stir up trouble, cause the Negro great unhappiness and discomfort, and fit in exactly with the plans of those who wish to destroy our Nation.

STATEMENT OF T. BRADY SAUNDERS, PRESIDENT, MILLER MANUFACTURING CO., RICHMOND, VA.

Senator DONNELL. Will you please state your name.

Mr. SAUNDERS. T. Brady Saunders.

Senator DONNELL. What is your business?

Mr. SAUNDERS. President of the Miller Manufacturing Co., Richmond, Va., who are manufacturers of millwork, trim for houses, wooden boxes, and building materials.

Senator DONNELL. Mr. Saunders, what is your educational background?

Mr. SAUNDERS. Common-school education and preparatory school.

Senator DONNELL. Where were you born?

Mr. SAUNDERS. Franklin County, Va.

Senator DONNELL. Franklin County, Va.; and you have lived in Virginia, some place in Virginia, all your life.

Mr. SAUNDERS. All my life, yes, sir.

Senator DONNELL. Do you mind stating your age?

Mr. SAUNDERS. I am 65.

Senator DONNELL. What is the nature of your company, the Miller Manufacturing Co.?

Mr. SAUNDERS. It manufactures millwork out of lumber. We buy lumber from all over the country, I believe, with the exception possibly of Missouri and one or two of the Midwestern States. We get it from Louisiana and all over the country. We fabricate that, mill it, make it into doors, windows, sash, trim, and cornices.

Senator DONNELL. Do you employ any colored labor in your work?

Mr. SAUNDERS. Yes, sir.

Senator DONNELL. Do you employ white labor also?

Mr. SAUNDERS. Yes, sir.

Senator DONNELL. How many people do you employ?

Mr. SAUNDERS. We employ approximately 500.

Senator DONNELL. How long have you been in this particular line of business?

Mr. SAUNDERS. Well, I have been in this particular business since 1904; all my active, adult life.

Senator DONNELL. Yes, sir. I may state to the committee, by the way, that Mr. Saunders does not, I am informed, have a prepared statement. We are really supposed to have prepared statements but I take it the committee will have no objection if you desire to present your views independently of such a statement.

Is there any objection on the part of any member of the committee that that be done?

Senator ELLENDER. Not at all.

Senator DONNELL. Have you examined S. 984?

Mr. SAUNDERS. No, sir.

Senator DONNELL. Do you know, generally speaking, that it is a bill to prohibit discrimination in employment because of race, religion, color, national origin, or ancestry?

Mr. SAUNDERS. I have seen the digest of the Library of Congress and I have read it in the paper and I have read the old bill.

Senator DONNELL. Have you formed an opinion as to the general policy and purposes of this bill, S. 984, from what you have read of the digest?

Mr. SAUNDERS. I have.

Senator DONNELL. Would you be kind enough to state to us what your view is and on what you base that view?

Mr. SAUNDERS. I think this would be a great handicap to the harmonious relations, not only between the whites and the colored, but it might even get back to a religious discrimination.

For instance, we have a lot of Baptists in our community down there and they are accused sometimes facetiously and sometimes seriously, of lining up among themselves, discriminating against other religions.

From a practical point of view, in Richmond we have no serious clashes between the white and colored races.

In our particular instance there, we have 20 truck drivers; we have developed those truck drivers through the development of the truck; and we have built them up, educated them from mule drivers. Before we did that, we experimented with white truck drivers and colored truck drivers, and we found out that white truck drivers are entirely unsatisfactory for this, for delivering this building material. If this bill were passed, we can see where some white man might come in and say, "I want a job as a truck driver." We just don't employ white men as truck drivers because they are not satisfactory.

Senator IVES. You discriminate against the whites?

Mr. SAUNDERS. That is right, we discriminate against the whites.

Senator ELLENDER. That is because of more competency in the colored?

Mr. SAUNDERS. More competency there; more reliability, even; more politeness. And they are of a more permanent nature, they stay with you. We have found through experience in various types of our work, in various sections of it, that the Negro is superior to the white man.

Senator IVES. Of course, you realize, sir, in that connection, that the real reason why you prefer the colored there, I assume, is not because they are colored, not because of the color of their skin, but because they meet that situation better than the whites would.

Mr. SAUNDERS. Absolutely.

Senator IVES. Therefore, it is not primarily or solely because they are colored or because the whites are white that that situation enters.

Mr. SAUNDERS. Yes; but, Senator, if we can judge by the interpretation that has been put on it by the National Labor Relations Board and various other governmental agencies that have recently been set up, you would find it very difficult to refute a charge made by the white man on that, or even the colored. You would find it very difficult to refute that charge.

Senator IVES. That is one of the problems, of course, that the commission in New York has had to face, and I think they have faced it very satisfactorily, judging from their experience.

Mr. SAUNDERS. In those cases, you might not be convicted but you would be confronted with defending by litigation, and these regulations serve to increase the cost of operations; therefore, it will increase the cost of living—because the cost of a house goes into the cost of living.

Senator ELLENDER. You say you employ 500 people. How many colored do you employ? That is, how many of the 500 are colored?

Mr. SAUNDERS. Approximately 40 to 45 percent colored.

Senator ELLENDER. Forty to forty-five—

Senator IVES. They work together with the white?

Mr. SAUNDERS. Oh, yes; yes, sir.

Senator IVES. Pardon me; I don't mean to interrupt you Senator Ellender. While he is on this point, I want to clear it up. The first witness who was here this morning was asked about that. I raised the question with the judge about the whites refusing to work with colored. Do you think that is true?

Mr. SAUNDERS. Yes, sir. That is in isolated cases.

Senator IVES. Your people are working together?

Mr. SAUNDERS. Yes, sir.

Senator IVES. Then, that isn't universal?

Mr. SAUNDERS. No; I wouldn't say that it is universal but we have in our case; even in the wartime when we had men working on ammunition boxes, some old white men, some of the older ones, didn't want to work with the Negroes. That is in isolated cases.

Now it is no use to agitate a thing of that kind. We can work that out with them.

Senator ELLENDER. If you are permitted to do so.

Mr. SAUNDERS. Yes; if we are permitted to do so, we can work that out.

Senator ELLENDER. That has been the case in your manufacturing establishment, and it is probably the reason why you get along so well with the colored and the white.

Mr. SAUNDERS. That is right.

Senator IVES. And, by the way, that very process that you are now describing is contemplated in this bill.

Mr. SAUNDERS. Yes; but you can't, in my opinion—

Senator IVES. The very process you are following.

Mr. SAUNDERS. Facilitate that by legislation. I think that is a process of evolution, so to speak. We do not look down on our colored people in our factory as secondary. We don't think our men do.

Senator IVES. I agree with you fundamentally, we are dealing here with an educational problem. There is no argument about that. The point is, with legislation of this type on our statute books, it can be to a certain extent facilitated, not arbitrarily, I would say, but in effect,

because it will concentrate on one thing, to try to get a uniform endeavor to correct the conditions that we are trying to get corrected along the lines that you obviously are trying to correct and are correcting yourself.

Mr. SAUNDERS. They are correcting themselves.

Senator IVES. That is right.

Mr. SAUNDERS. If you will permit them to go along freely as they are, they will, in time, correct themselves.

Senator ELLENDER. In that connection, could you outline for us the progress that has been made in your business toward this better relationship between the colored and the white in your factory, and your desire to spread, we may say, equal opportunities between the races?

Mr. SAUNDERS. Well—

Senator ELLENDER. You will grant that a decided change has taken place since 1904; is not that true?

Mr. SAUNDERS. Well, yes, there has been an improvement since 1904, gradually. It has gone on all through the South, I think. Of course, I am not familiar with the other States but certainly in Virginia it has gone along. The Negro people in Virginia are highly respected. They don't desire to mix with the white people, necessarily.

For instance, we just signed a union contract. We have an A. F. of L. union in our plant. We have never had a great deal of trouble with it. They come under the A. F. of L., the carpenters' union. Now, they have two separate unions; the Negroes don't want to be in the white union. The reason for that is that they want to talk about their own affairs and their own rates and conditions. They want to have a voice, independent of any other union. They want to have an independent voice and we have found them cooperative and very reasonable and sensible to get along with.

Senator ELLENDER. As to these cordial relationships that do exist in Virginia and other parts of the South wherein you are familiar, do you think the passage of this bill would in anywise effect those relationships?

Mr. SAUNDERS. I certainly do.

Senator ELLENDER. For the better or the worse?

Mr. SAUNDERS. For the worse.

Senator ELLENDER. Why do you say that? What causes you to say that?

Mr. SAUNDERS. Because you must remember that the Negro is only about 80 years from slavery and there is an evolution of progress going along through all civilization.

You will find now, you might get along with the majority of the Negroes, but it only takes one or two in a community to create a tremendous disturbance; and you are bound to have that one or two in a little community, especially in the rural communities, and even in a city of the size of Richmond; and it would, in my opinion, tremendously retard the progress of the harmonious relations between the two races.

Senator IVES. You aren't at all acquainted with the voluntary process incorporated in this bill, are you? That is the means by which the approach is to be made, through compulsory mediation, conciliation, and conference, and also by your councils, advisory councils, conciliation councils that are to be set up under it for educational pur-

poses. Are you acquainted at all with that? You haven't read the bill; you have just read the digest?

Mr. SAUNDERS. Just the digest.

Senator IVES. I would like to ask you your opinion. I think you are a fair-minded person. In Virginia, do you think, having these councils made up of leading citizens in communities—that is, representative of the professions, like the clergy and the legal profession; and then some of your leading business people there, representatives of labor and so forth and so on, with education to be included—do you think councils like that in communities, councils to try to bring together the community spirit, make it a united affair, along this particular line to encourage this very thing which is contemplated by this legislation—do you think councils of that type would help in the South; in Virginia, let us say?

Mr. SAUNDERS. I do not.

Senator IVES. You don't think they would do any good at all?

Mr. SAUNDERS. I do not. I think they would do harm. I do not think that is the right approach to it.

Senator IVES. They have been very useful in the North. I am just curious about that.

Mr. SAUNDERS. I could well see that they might be beneficial in the North, but you have a lot of difference in the North from the South. You have got to break down, probably, just as I illustrated a while ago, the viewpoint of this old workman, probably 70 years old. He has had a prejudice. Well, they are gradually dying out and that is breaking down itself.

Besides, in the North you probably have the better educated Negro.

Senator IVES. Probably the average of education is higher and the Negro education should be, as far as the common schools are concerned, the same as the whites. There wouldn't be any difference.

Mr. SAUNDERS. About the voluntary mediation that you are talking about, I can hardly conceive of what you might call a thoroughbred voluntary mediation brought about by a legislative act. I don't think people would conceive that it would be voluntary.

Senator IVES. I didn't say voluntary; I said compulsory mediation. That is what is contemplated here. You understand mediation, of course, from your experience in labor relations. There is nothing binding in mediation.

Mr. SAUNDERS. That is right.

Senator IVES. Mediation, in the final analysis, doesn't mean anything unless both parties are willing to reach agreement. You don't think that type of process would be helpful?

Mr. SAUNDERS. No, sir; I do not.

Senator IVES. It wouldn't be helpful to try to work the thing out by that means?

Mr. SAUNDERS. No. I do not think there is anything to work out, other than what can be worked out by the daily contact, natural contact; and I believe that is the only thing that will work it out.

The Negro has advanced tremendously in the South in my recollection.

We do not offer the Negro any better opportunities than we do the white people.

Senator IVES. Or vice versa?

Mr. SAUNDERS. Or vice versa. They are human beings with the average intelligence, I would say; and you don't find the mechanics that we require, the high-class mechanics; you don't find that very prevalent in the Negro.

Senator Ives. Let me ask you a rather direct question, a personal one. You don't need to answer it if you don't want to.

In the light of this legislation, do you consider that you yourself as an employer discriminate?

Mr. SAUNDERS. Repeat that question, please.

Senator Ives. I say, in the light of the legislation, which is contemplated in the legislation, do you consider that you yourself in any way discriminate?

Mr. SAUNDERS. Yes.

Senator Ives. As an employer?

Mr. SAUNDERS. I would, yes.

Senator Ives. Well, do you? You said you "would."

Mr. SAUNDERS. I think we would; we discriminate.

Senator Ives. You have already indicated that you prefer Negroes to whites in certain types of work there.

Mr. SAUNDERS. That is right.

Senator Ives. But that isn't primarily, certainly not solely because they are Negroes?

Mr. SAUNDERS. Not at all.

Senator Ives. Because other qualifications meet the conditions better. I don't know that anybody could say that you discriminate there, exclusively. Do you put in your plant whites in certain positions solely because they are whites; or Negroes in certain positions solely because they are Negroes?

Mr. SAUNDERS. Well, that is a very difficult question to—

Senator Ives. That is the fundamental one here.

Mr. SAUNDERS. It is difficult to answer. Now, you put the whites in there; you don't necessarily put them in there because they are whites, but you have learned from experience that the whites can do this job and the Negroes can't.

Senator Ives. Well, all right. If the whites can do it and Negroes can't, you certainly aren't discriminating on account of race.

Mr. SAUNDERS. I think it would be very difficult for you to refute a charge—

Senator ELLENDER. If you put that in the hands of a commission, as is contemplated here, why, they would be practically the sole judge of it.

Mr. SAUNDERS. That is correct.

Senator ELLENDER. Irrespective of what you—

Senator Ives. That is one of the things they have had to meet in the State of New York, of course, and I think that they would construe that, if the Negro didn't qualify or if the white didn't qualify—and in one case, you have indicated that the whites don't qualify for a certain position that you have there—not because of their color—

Mr. SAUNDERS. That is correct.

Senator Ives. Of race. There is no discrimination there. You have other qualifications involved.

Mr. SAUNDERS. I would say, under this law, that that would be discrimination.

Senator Ives. No; that hasn't been interpreted that way in New York. You want to bear in mind that this statute is based on the New York State statute. It is the New York statute translated into the Federal picture. It has not been interpreted that way there.

Mr. SAUNDERS. Has the New York act really been applied or enforced?

Senator Ives. Yes; it has, but they have done it there in New York by the process of mediation and conciliation and conference, getting people together; and today the amount of discrimination in the State of New York is almost at the vanishing point. Of course, there is some; there may always be; probably will be; but it is pretty well at the bottom, and they have done it without a single cease-and-desist order. They have done it without a single case going to court.

Mr. SAUNDERS. But, Senator, don't you realize that this process of meeting together, this mediation and conciliation, along with various other things, takes up the time of some important man in your organization and adds to your overhead?

Senator Ives. That is true.

Mr. SAUNDERS. And we have been building this overhead from time immemorial. Well, in the last—

Senator Ives. You are your own personnel manager?

Mr. SAUNDERS. No, sir; we have our personnel management divided up. I will take one department in one section and another man will take another one. But I am the president.

Senator DONNELL. May I just interrupt a moment, Mr. Saunders, to make a note here, just so that it will not be overlooked in the record?

It appears to me that the point that Senator Ives makes to the effect that there has been no court order, shows pretty clearly that there has been no court decision as to whether or not a man who would refuse to employ a colored man because he thinks a white man is more apt at the particular job or vice versa, would refuse to employ a white man because the colored man is more apt at the job—no court decision that such action on the part of the employer does or does not constitute a violation of this language.

In other words, I think Mr. Saunders' point is that if he were to come in before this Board, under this bill as he understands it from the digest, and if it were charged that he had refused to employ a white man, we will say, to make it on that side of the fence for the moment, refused because he thought the colored man was more apt in the particular job and better fitted for it, Mr. Saunders thinks he would have great difficulty in refuting the charge that he himself had discriminated on account of color, even though in his own mind and as he would testify, it was not the color but was the aptitude of that race rather than the color.

Of course, the same situation would apply on the converse situation, where he refused to employ the colored person. In other words, the point I am making is that it seems to me that there is a good deal to be said in favor of the proposition that, inasmuch as there has been no litigation in New York, no court decisions, obviously it has not been decided by a judicial body whether in the case Mr. Saunders mentions he could successfully refute the charge or whether the charge could be successfully maintained against him in the cases cited by him. I just wanted to note that in the record.

Senator Ives. I think Mr. Saunders has answered that question himself when he has said that the reason why he prefers the Negro to the white in the position he has mentioned is not primarily because the person is a Negro but primarily because he does the job better. That wouldn't bring you into court under this.

Mr. SAUNDERS. Well, then, you would have even more trouble if you declined to employ a Negro who applied. You would have more difficulty in refuting that charge.

Senator Ives. Let me clear this point up that Senator Donnell has been making here. So far as New York is concerned, as I understand the New York picture, I think the reason why no cases come to court in New York is that there has been no occasion for prosecution because no case has come up where it is clear that there is discrimination solely because of race or religion or color or ancestry or things of that character.

I mean, that is the real reason. Any case of that type that has arisen in the State of New York—and there have been cases; there have been several hundred, as a matter of fact; that fact was given us before this committee—has been settled by this other process of getting together and working the thing out.

Senator ELLENDER. In that connection, may I say, as I indicated on two or three former occasions, the New York law has not as yet received a fair test. The law has been on the statute books for 2 years and, as I recall, there were 500-hundred-plus complaint cases.

Senator Ives. Six hundred.

Senator ELLENDER. Six hundred; and only two-hundred-odd or three hundred settled; and when we reach a point—which I hope we never do—of a lot of unemployment, you will see a different picture, I think, in the administration of the New York law, to what prevails under full employment.

Senator DONNELL. Mr. Saunders, is there anything further that occurs to you?

Mr. SAUNDERS. This New York act may work in New York; I don't believe it would work in Virginia.

Senator DONNELL. Have you traveled over other sections of the South, too, Mr. Saunders, and made any observation from which you have deduced an opinion on that subject, elsewhere than in Virginia?

Mr. SAUNDERS. I haven't traveled extensively over the South but I come in contact with lumber-producing people all through the South, in various other industries.

Senator DONNELL. Are you able to form an opinion from your contacts that you have had with other people in the lumber industry, over other parts of the South, as to whether or not this law would satisfactorily work in the South?

Mr. SAUNDERS. I certainly have, and I—

Senator DONNELL. Tell us what that opinion is.

Mr. SAUNDERS. I haven't contacted a single person who doesn't think that it will be the worst act that could be passed for the South. It would cause more trouble.

Senator DONNELL. How many persons do you think you have contacted and over approximately how many States would you say your contacts have spread?

Mr. SAUNDERS. Well, Georgia, South Carolina, North Carolina, Tennessee, Texas, and Mississippi.

Senator DONNELL. I don't mean to pin you down to the exact number, but approximately how many people in your line of work have you talked with from those various States from which you have deduced this opinion?

Mr. SAUNDERS. In our particular line of work I would say at least 50 or 60; but probably in all lines of work more than 100. I would say, in the year or two, expressed since the original FEPC bill was introduced.

Senator IVES. This isn't an FEPC bill such as operated under the other.

Mr. SAUNDERS. I quite agree with you.

Senator IVES. This one is quite different.

Mr. SAUNDERS. But the principles of enforcement are the same.

Senator ELLENDER. That is it. No; the original FEPC had no enforcement provisions in it; it was simply on a voluntary basis; but this bill has a lot of long teeth in it.

Senator IVES. The original FEPC had no such approach as this, either.

Senator ELLENDER. Oh, well—

Senator IVES. Senator Ellender and I always get into conversations on these things.

Senator ELLENDER. You will find that the administration of it differs very little, Senator.

Senator IVES. Regarding your contacts in New York State, you undoubtedly know quite a number of manufacturers up there in your line of business; have you inquired up there about this at all?

Mr. SAUNDERS. No; I have not.

Senator IVES. You might be interested in doing that sometime.

Mr. SAUNDERS. I know some manufacturers in New York State and we do business in New York State.

Senator IVES. Yes; I assumed that you did.

Mr. SAUNDERS. But I haven't had any expression.

Senator ELLENDER. Mr. Saunders, you stated a moment ago that this bill may work well in New York and you know that it won't in the South from having talked to many people engaged in business in the South. Now, can you tell us specifically why that is? Can you give us a few reasons, other than the ones you have already stated?

Mr. SAUNDERS. Well, you frequently advertise for help in the South. It is frequently done by advertising for white help or colored help. Now, I would construe it that if you put an ad in the paper for either colored or white, you would be discriminating, and I think you would just have a great difficulty in refuting a charge.

Senator IVES. As a matter of fact, that particular thing is covered by another statute in New York.

Mr. SAUNDERS. For instance, if you wanted a bookkeeper—we have had no experience with bookkeepers other than the white; we wouldn't want to go out and experiment. Besides, we don't think it would be a good approach to our customers to come in there and settle with the Negro bookkeeper. They haven't been used to it.

Senator DONNELL. Any further questions, gentlemen, of Mr. Saunders? Do you think of anything further, Mr. Saunders, yourself, that you would like to submit to the committee?

Mr. SAUNDERS. I don't think I have anything further. I would like to reiterate that I don't believe that legislation is the proper approach to it. I think the natural, daily contact from employment—and you don't employ all Negroes; some Negroes are employers. We have customers, Negro customers, and I think that is the natural evolutionary method of approach to this problem. I think that is the only approach.

I don't think that you can legislate and solve the problem.

Senator DONNELL. Anything further, gentlemen of the committee; or from Mr. Saunders himself?

We are very grateful to you, Mr. Saunders, for giving us the benefit of your views.

Senator ELLENDER. Mr. Saunders, during the course of your testimony you have indicated that after some experience with colored truck operators, you found that they would be better for your business, exclusively, rather than mixing them with whites, or to exclusively employ white truck drivers. You felt that the colored drivers were performing better service than the white drivers? You further stated, did you not, that you employed as many as 500 people and that about 40 percent were colored and the rest were whites. Have you any other branch or section of your business in which you find that either the whites or the colored people do a better job in your business?

Mr. SAUNDERS. Yes, sir.

Senator ELLENDER. What other?

Mr. SAUNDERS. For instance, around our planer or what is known as a planer, a machine that dresses lumber, we found that the colored people performed better around that machine than the whites. In our particular case, it happens to be a white foreman. Some years ago, we had a colored foreman, and he left us of his own accord, and we just happened to supplant him with a white man, because he was trained and we did not have another colored man trained. That has gone along that way now for some time.

Senator ELLENDER. In employing your help, do you make an effort to afford to the whites or the colored or any other of the racial groups equality for attainment of this economic opportunity that we have been talking about?

Mr. SAUNDERS. Yes, sir; we do. I would like to explain that when we hire a man for a planing mill, we would not hire a white man. If we could get a darkey, we would not hire a white man, because they work better at that particular job. In certain instances, we would employ a white man for this particular work. For instance, in our lumber yards which take care of the handling of the lumber from the cars, we have found that the colored employee does that job better than a white man. He gets to be more of an expert, and he handles that with remarkable skill and with remarkably little effort.

Senator IVES. As I said, I would like to point out one thing. It seems to me that those differences are not due primarily to the color of the skin. It so happens that the colored personnel that you have are better in that particular work. It is conceivable that a white man may be able to do as well, if he wanted to or tried to, or vice versa.

Mr. SAUNDERS. That is quite correct.

Senator IVES. It is not because of the color of his skin that you take him on.

Mr. SAUNDERS. I quite agree with you there, Senator Ives. That is the thing that I would think would be hard for us to substantiate. You start here in your bill—and I have read the bill only since this morning—that the Congress hereby finds the practice of discrimination. You have already convicted on that. You go along and say here that it should be unlawful. You so state on page 4 and on page 5 that it shall be unlawful. You state that it is unlawful to do all of these things. I think that this bill says it shall be unlawful for us not to employ a white man in our planing mill if he applies to us. I think we would have a hard time refuting his charge. We would certainly have to defend litigation. The purpose of this bill, I think the language of it here is all right, but you provided in here that there shall be created a Commission. You are going to give those fellows \$10,000 a year. A Commission that carries with it the position that is desirable is bound to create enough work to keep itself in office to justify its pay. They cannot create work except through some kind of investigation of industry or an indictment of industry.

Senator IVES. Let me set you straight on that point. I do not mind if you refer to New York, because it has already been referred to. In New York we take a great deal of joy in the fact that the commission is not overburdened. It would be a great thing if the commission did not have a thing to do, and if this matter were straightened out. It is not the amount of work, but whether discrimination is gradually being eliminated that counts. When the time comes, we will abolish the commission in New York. They are certainly not looking for cases in New York. They are doing anything but that. Their whole attitude is to try to placate things and keep such situations from arising. We have a good commission in New York. It is a good and sensible commission.

Senator ELLENDER. Mr. Saunders, I do not believe that there is any member of this committee present who does not feel that the distinguished Senator from New York, Senator Ives, is absolutely honest and sincere in his belief that this bill would work admirably well throughout the country. What do you think his position would be if he were to live in Louisiana, or Virginia, for 2 years, and to know the situation as we do? Do you think he might probably share your views in the situation, as to what your idea would be on that?

Mr. SAUNDERS. I do not think there would be a chance in the world of Senator Ives introducing such a bill. I do not impugn his motives.

Senator IVES. I doubt if I would ever be returned to the Senate, if I did.

Mr. SAUNDERS. I am referring to the fact that if you lived there, and I did not interpret the question that way. I do not know why he asked that question, "having lived there only 2 years." It would take you that long to understand what the situation is.

Senator IVES. That is what I am trying to get from you people now.

Senator ELLENDER. Please tell him why a law of this nature may work well in New York and not in Virginia or any other Southern State. Senator Ives might like to hear about that.

Mr. SAUNDERS. The standard of living in the country as referred to a man's condition is largely a mental state. Certainly, if we compare them to foreign countries, we can say that none of living standards are low. It is largely a mental state. Senator Ives introduced here a

bill that I know he is sincere about, absolutely sincere, and I have not doubted that for a minute.

Senator Ives. Further than that, I do not want more damage than good to come out of the bill.

Mr. SAUNDERS. I know that you are perfectly sincere, but you are trying to elevate or lift up or make more happy a people who are much more happy now than you, Senator Ives, and they get more out of life than either you or me. The southern Negro who stays in the South is the happiest person in the United States. He has a philosophy all of his own.

Senator Ives. That all depends upon the definition of "happiness."

Mr. SAUNDERS. He is one of the greatest diplomats in the world. He knows just how far to go with his employer, or even with the judge. He is a great diversion for the southern businessman who knows him. The businessman would be tremendously downtrodden but he has only to have a Negro come in with his Negro problems, and the southern man who is raised in the South likes to work with the Negro, because it affords him a diversion. He has a certain thing that I do not know how to describe exactly, that more or less appeals to the southern businessman.

Senator Ives. Let us get ourselves oriented on that point. I take it that you feel that the Negro is happy because of the status which has been assigned to him in society. That is about it, is it not?

Mr. SAUNDERS. No.

Senator Ives. If you take him out of that status and try to advance him, then he ceases to be happy because he gets confounded by the other problems that face him, and other questions with which he may be confronted?

Mr. SAUNDERS. No, sir. The Negro status has not been assigned to him. He has developed that status. It is a status that you and I know is greatly improved from 40 years ago. It is not one that has been "assigned" to him, but one that has been developed.

Senator Ives. At the same time, I think your theory is that as long as he is a sort of ward of society, that he is happier than as though he were independent and on his own?

Mr. SAUNDERS. He is not a "ward" at all, in any sense of the word. We do not look on the Negro as a ward, but we do listen to the Negro, and we are more sympathetic with the Negro than you people are in the North. We are more sympathetic with them than we are with the white people. We are more sympathetic with them than we are with the white folks.

Senator ELLENDER. Why is that, Mr. Saunders?

Mr. SAUNDERS. That is a thing that has grown up, I think, with us who were born and raised with them. We are not far away from the time when our forefathers had to look after these colored people. I often talk to my mother, who is still living, and she remembers very well the Civil War. She has told me time and again about the Negroes who died, not being able to take care of themselves. They died like flies because they did not know how to take care of themselves. They never had taken care of themselves. Their owners had given them their food and told them how to cook it, or probably had somebody to cook it for them. They provided the food, and when they got out on their own, their owners then could not keep them because they were

not able to feed them, and it was a terrible tragedy. They died of diphtheria, typhoid fever, and tuberculosis; and they died like flies. We still have inherited that problem, and feel that there is more or less something that we owe them in the way of a consideration, more than we do to the white folks. I think it is that reason as to why the Negroes better appeal to us than the white folks.

Senator DONNELL. Is there anything further?

Senator IVES. I have one more thing that I would like to point out, Mr. Chairman. In the North, I think there has been a tendency to put the Negro on a plane of equality more and more, and in doing that, of course, greater and greater responsibility, insofar as the Negro's own welfare is concerned, necessarily devolves upon Negroes and their sense of responsibility, by the same token has ceased to exist. That is one of the main reasons in trying to enact legislation that will produce in our society a condition wherein the Negro and all others—it is not confined to the Negro alone, and also to matters of religion and ancestry—all peoples, when it comes to work, will be on a plane of equality.

Mr. SAUNDERS. When you legislate on the problem of religion, that is not what I interpret freedom of religion to be. When you legislate on religion, you are taking away the freedom of religion. The Negro that we have in the South is not a Negro that we think you can uplift by coddling. We do not think you can improve the race by that system. We do think you have to be sympathetic with them. You people in New York would be not greatly individually concerned, and, of course, the State of New York is made up of people not different greatly from the people of Virginia. You would not individually be very much concerned about a Negro being hungry. You would not look at him.

Senator IVES. We are concerned to the extent of anyone being hungry. I do not know if we would have greater concern for a Negro. If a person were hungry we would be concerned.

Senator DONNELL. Is there anything further?

If not, thank you very much, Mr. Saunders.

Senator DONNELL. I want to ask Mr. Looney just one question at this moment, if I may.

Mr. LOONEY. Mr. Spence in his testimony, although he is not a lawyer, mentioned the theory that this bill, S. 984, may be argued to be sustained on the power of Congress over interstate commerce. I am wondering whether or not you would find time, in the course of the preparation of the supplement to your statement that you are going to make up, if you deem it wise to present a supplement, to give attention to this question as to whether or not, under such decisions as the Gold Clause case, for instance, in which I recall that the Court held in substance that where jurisdiction is conferred on Congress with relation to a specific field, such as interstate commerce, the power of Congress in that field is supreme—I may be somewhat inaccurately stating it, but you know the doctrine to which I refer—I am wondering if you would give us the benefit of your views in the supplement upon the point that it might be argued that, inasmuch as Congress has power over interstate commerce, it may in this legislation, notwithstanding the provisions of the various other sections of the Constitution to which you have referred, legislate constitutionally as proposed here.

Do I make the point of inquiry clear?

Mr. LOONEY. Yes, sir.

Senator DONNELL. We will appreciate, Mr. Looney, your giving attention to that point.

STATEMENT OF RAYMOND V. LONG, DIRECTOR, VIRGINIA STATE PLANNING BOARD, RICHMOND, VA.

Senator DONNELL. Mr. Long, do you have a prepared statement?

Mr. LONG. No, sir; I do not.

Senator DONNELL. Will you state your name, please, sir?

Mr. LONG. Raymond V. Long.

Senator DONNELL. Where do you live?

Mr. LONG. Richmond, Va.

Senator DONNELL. What is your business?

Mr. LONG. Director of the Virginia State Planning Board.

Senator DONNELL. What is the State planning board?

Mr. LONG. It is a board appointed by the Governor of Virginia to make studies, provide information to local government, State agencies, make special studies for the Governor himself on request or any legislative body that may request special studies on social, economic problems.

Senator DONNELL. Are you appointive officers?

Mr. LONG. Elected by the board itself.

Senator DONNELL. And the board itself is appointed by the Governor of the State?

Mr. LONG. That is right.

Senator DONNELL. Mr. Long, were you born in Virginia?

Mr. LONG. No; Maryland.

Senator DONNELL. What was your educational background, please, sir?

Mr. LONG. Graduate work at Columbia University; master's degree.

Senator DONNELL. Master of arts?

Mr. LONG. Master of science.

Senator DONNELL. What was your preliminary collegiate work?

Mr. LONG. I took my undergraduate work at Columbia also.

Senator DONNELL. You took the bachelor degree in science at Columbia University?

Mr. LONG. Yes, sir.

Senator DONNELL. Then did you live in Maryland at the time that you were attending the university?

Mr. LONG. That is right.

Senator DONNELL. Did you come back to Maryland?

Mr. LONG. No.

Senator DONNELL. When did you come to Virginia?

Mr. LONG. I came to Virginia in 1914.

Senator DONNELL. In what profession did you engage from 1914 until your appointment as Virginia State planning engineer?

Mr. LONG. I was an instructor at the State teachers' college, Farmville, Va., for 4 years; then with the State department of education from 1918 to 1942 as State school architect; and from 1942 on, as director of the Virginia State planning board.

Senator DONNELL. What were your duties in each of those capacities, in Virginia—chronologically, if you please?

Mr. LONG. Well, the instructorship, at the normal college—the usual work in instruction.

Senator DONNELL. What did you instruct?

Mr. LONG. In the philosophy of education and industrial education.

Senator DONNELL. Then, in your work in the next position, in the education department of the State, what did you do there?

Mr. LONG. Supervising the construction of school buildings and making plans for school building construction.

Senator DONNELL. Then, your State planning work, I take it that you have been engaged in the formulation of plans for the development of the State-wide plan?

Mr. LONG. Well, not quite that. Our major emphasis is not trying to hang down or superimpose upon local governments plans already worked out; but to try to assist local governments to work out plans for themselves.

Senator DONNELL. Have you had occasion in the course of your work to come in contact with both the white and colored labor and with employers of both white and colored labor?

Mr. LONG. Yes, sir.

Senator DONNELL. How extensive would you say has been your experience along those lines?

Mr. LONG. Rather extensive in connection with construction of school buildings; quite a bit of labor employed, both white and nonwhite.

In connection with our planning work, we work both with Negro organizations and white organizations, trying to emphasize a point that has been touched on rather lightly, and I think should receive far more important consideration in view of this contemplated legislation, and that is the economic one. I believe our problem in Virginia—and I think in the South—has a setting for this kind of thing more as an economic problem than perhaps a social one; and the social problem is one that is an outgrowth of economic difficulties.

Senator DONNELL. Now, Mr. Long, would you be kind enough to proceed with your views respecting S. 984.

I will ask you first, have you read that specific bill?

Mr. LONG. I have not read the technical bill, but the summary.

Senator DONNELL. You know the general philosophy of the bill and the general purposes to be effected by it?

Mr. LONG. Yes, sir.

Senator DONNELL. Would you state, please, into the record, your view with respect to legislation of that type and your reasons for those views.

Mr. LONG. My personal philosophy does not permit the continued encroachment of legislation for States and localities when the States and localities are in position to do those things for themselves.

We in Virginia are strongly of the opinion that the States ought to be given an opportunity and encouraged to try to work out these problems themselves. We believe that the social implications involved in this proposed legislation, as well as the economic implications, are ones that we have been gradually correcting and that we believe we can more easily, with less dissention, work out the salvation and solution of that problem ourselves, rather than legislation coming from centralized government.

That is Virginia's philosophy, not only with regard to centralized Federal legislation but State legislation. We, as far as possible, are

trying to urge local governments to strengthen themselves through assuming larger responsibilities.

One phase of this, dealing with the economic problem—and in which we think we recognize a serious implication—is the fact that the low per capita income in Virginia is largely accounted for by the low per capita income of the Negro. That needs to be raised. They need to have new opportunities, or enlarged opportunities, or opportunities for employment that will give them every opening by which they may earn the most that their capacities will permit.

Pursuant to that end, our governor is now appointing what is known as the Virginia Advisory Council on the Virginia Economy. On that council he has appointed two Negroes, realizing that is a very important and significant part of our effort to improve our economy, which means increasing employment, providing new employment opportunities.

Senator DONNELL. What is the name of that council?

Mr. LONG. The Advisory Council on the Virginia Economy.

Senator DONNELL. Go right ahead.

Mr. LONG. I can't say what it has accomplished because it is just being organized; but there is an evidence of the fact that our government, through the leadership of our Governor, recognizes that as a problem. We are making that approach to our own solution.

Senator ELLENDER. Now, Mr. Long, that low-wage scale not only applies to colored people; there are a number of white people in Virginia that are receiving virtually the same amount as the colored people.

Mr. LONG. Quite so.

Senator ELLENDER. That is due to their lack of knowledge of jobs, jobs for which other people are better qualified, isn't that true?

Mr. LONG. Quite so. They are misplaced; not in jobs where they can exert their greatest and best capacities to yield returns.

Senator DONNELL. Do I understand that you are opposed to the bill, S. 984, as you understand it from your general knowledge of the philosophy and purpose of it, is that right?

Mr. LONG. Yes, sir.

Senator DONNELL. Now, is your opposition based primarily on the fact that this is an entry by the Federal Government into this field and that it should be left either to the State governments or even to smaller subdivisions of government; or is your opposition in addition to that, based upon the proposition that it constitutes an improper interference in matters of employment and would be improper even if it were the State or the local subdivisions of the State that would work to undertake to carry out these purposes?

Mr. LONG. My objection would be to both of those at this time. If and when Virginia is ready to adopt legislation along this line, similar or somewhat related to it, as New York has seen fit to go ahead and adopt its proposal, then I think it would be quite timely for Virginia to consider on its own when and if it is ready for it. It would be most unfortunate and most inopportune so far as sound thinking and popular opinion in Virginia goes, for this kind of legislation to be imposed or superimposed upon us.

Senator DONNELL. I am not quite clear yet as to whether you mean that you think it would be unwise that it be superimposed because it

would involve an entry by the Federal Government into a field that is purely State government, or even a matter for local jurisdiction smaller than the State; or whether your opposition to the general purpose of the bill is on other grounds; namely, that the bill involves what you think to be an improper effort to treat on subjects into which legislation should not project itself.

Mr. LONG. I think both of those. I object on the philosophy that we ought to be given an opportunity to work these things out ourselves and not have legislation superimposed on us if it is the kind that we can work out for our own salvation.

Second, I think the kind of legislation, as I understand it, that the bill proposes, would work to tear down many wholesome race relationships that have been built up in the past 10 or 15 years that are the result of the expenditure of real effort on the part of both races to try to work together and get together. So on both those terms, I would object to this proposed legislation.

Senator ELLENDER. Mr. Long, as I understand you, whether such legislation is placed on the statute books by the Commonwealth of Virginia or by the Federal Government would, in a measure, make no difference to you. The thing is, it may cause this difficulty to which you refer, whether it is passed by the State of Virginia or the Federal Government; is that true?

Mr. LONG. Certainly; yes, sir; at this time the State of Virginia would not ratify any such legislation as this.

The point I meant to make a while ago—New York apparently has arrived at the point where it is ready for this general type of legislation. Virginia is not. We may get ready for it in the next—

Senator ELLENDER. As I stated here on many occasions, New York seems to be the State that breeds such discontent among people and it may be necessary for them to have some legislation.

Mr. LONG. Maybe so.

Senator ELLENDER. And I am sure a lot of well-meaning people in New York and New Jersey, where they have such laws, are certainly not familiar with conditions in the South.

Mr. LONG. You are eminently correct on that, Senator.

Senator ELLENDER. Surely.

Senator DONNELL. Mr. Long, are you able to give us an opinion as a result of coming in contact with people from other States, from whom you have derived knowledge as to their opinions touching legislation of this type?

Mr. LONG. Generally speaking, yes. I had opportunity—

Senator DONNELL. Over how wide an area and how many people, would you estimate?

Mr. LONG. Over the United States. I happen to be intimately associated with a national organization and I have been for some time.

Senator DONNELL. What organization?

Mr. LONG. The National Association of State Planning and Development Agencies.

Senator DONNELL. What observations have you had in connection with that association and with how many persons—and I take it that in response to my question about the area, it would be throughout the United States. Is that your answer?

Mr. LONG. Yes, sir.

Senator DONNELL. Will you tell us, please, how many people, substantially, with whom you have come in contact or heard expressions of opinions and what have you arrived at in your own mind as the consensus of opinion in the States from which you have heard opinions emanating?

Mr. LONG. This particular group that I referred to I think is predominantly of the opinion that we want less centralized legislation and more encouragement, more service, advisory and consultative help, from Washington, and less regulation.

Senator DONNELL. What about the other point? You have touched on the centralization—Federal legislation, in other words, as against State legislation. What, if anything, have you learned from other States through your contacts as to the opinion of the wisdom of this type of legislation, whether it be instituted by the Federal Government or by the State?

Mr. LONG. Well, that is more particularly limited to the so-called 11 Southeastern States, the States so listed in the census. We have an organization known as the Southeastern Region, of these agencies who get together frequently and interchange thinking on these problems, the social implications as well as the economic. I have outlined it for Virginia and I think it is generally true for all 11 of the Southeastern States.

Senator DONNELL. You think the consensus of opinion, as you get it—as I understand from your testimony—is throughout the 11 Southeastern States, is it?

Mr. LONG. Yes, sir.

Senator DONNELL. The 11 States; that it would be unwise to have legislation of this type, even if that legislation were passed by State legislatures as distinct from Congress; is that right?

Mr. LONG. Yes, sir.

Senator DONNELL. I don't want to suggest anything to you that is not correct as an interpretation of your testimony, but that is what I understood it to be; is that correct?

Mr. LONG. Yes, sir.

Senator DONNELL. Now, is there anything further, Mr. Long, that you have to present to us?

Mr. LONG. I think not, sir. I think that covers it, generally.

Senator DONNELL. Senator Ellender?

Senator ELLENDER. Well, Mr. Long, have you come in contact with any of the businesses in Virginia of the character described by the preceding witness, Mr. Saunders?

Mr. LONG. In what way?

Senator ELLENDER. Well, in demonstrating to the committee, if you can, the cordial relationships that do exist at the present time in these businesses and the effect that the passage of this legislation would have to disrupt these cordial relationships.

Mr. LONG. Well, this may be a case in point. The building trades in Virginia have, for a good many years, been employing both Negroes and whites—plasterers; we have crews of Negro plasterers that work with crews of carpenters, not at the same time because the plasterers are working at a different time, but we don't have a mingling of Negroes and white plasterers. We may have a white plasterer and his crew or a Negro plasterer and his crew.

The same is true of bricklayers. That seems to be growing in popularity as a trade, an outlet for Negro employment—not mixed on bricklaying operations but when the bricklayers get through, perhaps a gang of carpenters come along and place the joists, and when they get through, a Negro crew of bricklayers will come back and continue the work.

That has proven to be quite satisfactory.

I have not been in intimate touch with other businesses so far as their employment problems are concerned. I can speak of that only in a very general way.

Senator ELLENDER. But the same thing occurs in those others as far as you know, and as far as you have heard, as would——

Mr. LONG. Yes, sir.

Senator ELLENDER. As is the case in the business you have just described?

Mr. LONG. That is right.

Senator ELLENDER. And it is your considered judgment, I take it, that the passage of this law would disrupt that?

Mr. LONG. Quite so. I can conceive of it quite easily doing that.

Another point: Even though this law may not have the intent to directly regulate a whole lot of employment, I can envision as the years go by, modifications and the strengthening of certain features of it that would require in our State health department, which is subsidized partly with Federal funds, in our welfare work, and in our highway work, in our soil-conservation work, the introduction of very serious social problems that would tear down and, in large measure, nullify some of the present, happy relationships that have been built up.

As we now operate, if we were required, for instance, to have white and nonwhite working along, side by side, in a supervisory capacity in the State health department, State welfare department, State highway department, or if we were to have Negro soil conservation supervisors working with white conservation supervisors and the same thing in forestry; I can envision serious difficulties coming out of that if this legislation passes and, over a period of years, gradually gains momentum and is added to.

Senator ELLENDER. Mr. Long, don't you feel that this cordial relationship, and more of it, is more likely to come about under the system that is now in force in the South, as now practiced, than you could accomplish under this law?

Mr. LONG. Absolutely, sir.

Senator ELLENDER. Are you familiar with the administration of the so-called FEPC, under the Executive order of the President?

Mr. LONG. Generally.

Senator ELLENDER. Well, you are familiar with the cases in Virginia, where the Executive order was so administered as to tear down customs and barriers that had been prevalent in Virginia for quite some time, and what did that cause?

Mr. LONG. That caused bitter resentment and strong resistance and friction and tearing down what we have steadily and constructively built up.

Senator ELLENDER. That is all the questions I have.

Senator DONNELL. Anything further, Mr. Long?

Mr. LONG. I have nothing further.

Senator DONNELL. We are very grateful to you for giving us the benefit of your views, Mr. Long.

The committee will be in recess until 2:30 this afternoon, to meet again at this same location.

(Thereupon, at 1 p. m., a recess was taken until 2:30 p. m. of the same day.)

AFTERNOON SESSION

Senator DONNELL. The committee will be in order.

Mr. Crozier, will you take the stand.

**STATEMENT OF HARRY BENGE CROZIER, CHAIRMAN-EXECUTIVE
DIRECTOR, TEXAS EMPLOYMENT COMMISSION**

Senator DONNELL. Will you please state your name?

Mr. CROZIER. Harry B. Crozier.

Senator DONNELL. Where is your home, Mr. Crozier?

Mr. CROZIER. Austin, Tex.

Senator DONNELL. What is your business?

Mr. CROZIER. I am chairman-executive director of the Texas Employment Commission.

Senator DONNELL. Is that a State governmental commission?

Mr. CROZIER. Yes, sir.

Senator DONNELL. Are you appointed by the commission or by the Governor?

Mr. CROZIER. By the Governor.

Senator DONNELL. Who appointed you.

Mr. CROZIER. I am here at Governor Jester's direction. I was appointed by Governor Stevenson.

Senator DONNELL. Where were you born, Mr. Crozier?

Mr. CROZIER. In the cattle country, west Texas, around San Angelo.

Senator DONNELL. Have you lived in Texas all your life?

Mr. CROZIER. With the exception of 4 years in New York City.

Senator DONNELL. Where did you take your schooling?

Mr. CROZIER. In Texas at Southwestern University.

Senator DONNELL. What degree did you take?

Mr. CROZIER. None.

Senator DONNELL. What did you specialize in in your collegiate work?

Mr. CROZIER. Government and history and economics.

Senator DONNELL. When did you finish your collegiate work?

Mr. CROZIER. In 1912.

Senator DONNELL. What did you do then?

Mr. CROZIER. I became a cub reporter.

Senator DONNELL. On what paper were you a cub reporter?

Mr. CROZIER. On the San Antonio Express.

Senator DONNELL. How long did you hold that position?

Mr. CROZIER. About a year, and I then went to the Galveston and the Dallas News.

Senator DONNELL. How long did you hold that position?

Mr. CROZIER. Intermittently for about 25 years.

Senator DONNELL. That brings you up to what year?

Mr. CROZIER. About 1937. In 1931 I went to New York as the Director of Public Relations for the American Petroleum Institute. I returned to Dallas and the Dallas News for a year and a half as a political correspondent, and then I went into public relations and counseling, and was appointed to this job in 1942.

Senator DONNELL. Have you traveled through practically all parts of Texas?

Mr. CROZIER. Yes, sir; I suspect that I am one of the few Texans who have been in 254 counties, and I am not sure of that, but as a staff correspondent of the News I got into almost every county in the State.

Senator DONNELL. Will you proceed with your testimony?

Mr. CROZIER. Yes, sir. May I explain that Governor Jester was out in Utah and his correspondence was by telegram with Senator Ellender. I had no time until yesterday evening to dictate this statement.

Senator ELLENDER. What I did was to invite Governor Jester, as well as other citizens from the South, to come to Washington and give their testimony for or against the bill, not so much in opposition, but to come here and testify. I specifically stated that in the telegram. I will be glad to furnish a copy of that for the record and indicate that the telegram was directed to them with a view of asking them to testify either "for" or "against" the bill.

Mr. CROZIER. As I recall your language in the telegram, you did not press the invitation. You simply asked if we wanted to be present.

Senator ELLENDER. Either "for" or "against" the bill.

Senator DONNELL. If the Senator desires to incorporate the specific language, we can do that.

Senator ELLENDER. I do not think that it is necessary. Mr. Chairman, in connection with this invitation, quite a few of the Governors responded that they regretted, because of the fact that they had made arrangements to attend a Governors' conference in Salt Lake City, Utah, that they would be unable to be present.

Unfortunately, there was no way that they could change the date, and I so notified them.

Senator DONNELL. Go right ahead and present your statement, Mr. Crozier.

Mr. CROZIER. My presentation before your committee is at the request of Gov. Beauford Jester, and in my own behalf as chairman-executive director of the Texas Employment Commission. That commission administers the employment service and the unemployment compensation joint program in Texas.

We, in Texas, are concerned that our minority groups shall have greater opportunity to achieve a fuller measure of living. In the way that a society composed of men of good will go about these things, we are laying the ground work for wider opportunities for these people. Our task in Texas is to give the Negro a fairer chance in industry, and to do away with prejudices against Texans of Mexican descent.

The program, as we view it, is one that calls for education, more education, and again education, and one that can be scuttled beyond redemption, and probably would be, by any attempt at legislative or administrative coercion.

Senator DONNELL. In your work of the Texas Employment Commission, are you thrown into contact with employer and employees as well?

Mr. CROZIER. Yes, sir. During the first 2 years of my tenure I was the employer representative.

Senator DONNELL. Then you were appointed chairman and public member?

Mr. CROZIER. And public member.

Senator DONNELL. What is the Texas Employment Commission? What are its functions?

Mr. CROZIER. Until recently, it was called the Texas Unemployment Compensation Commission, but with the return of the employment service, we asked the legislature to give us a wieldier and more affirmative approach, and it was changed to the Texas Employment Commission.

Senator DONNELL. With not so much emphasis on the "unemployment?"

Mr. CROZIER. Yes, sir. We try to get away from that. We believe it is a fatal defect in any legislation that would impose strait-jacket standards of employment practices; that therein lies an expressed assumption that standards of tolerance, good will, and fair play, can be raised by a legislative device.

In our effort to solve problems, we are all aware that too frequently we have enacted laws that were ahead of society's customs and convictions, with the result that there was no public acceptance and accordingly nothing but bitter fruits and increased conviction together with increased lowering of public respect for law in general.

A Federal enactment along these lines would suffer severely indeed from this basic defect. Despite the growth of national regulations in many fields, there still remains in this country an amazing amount of regional diversity in attitudes and outlook. Those of us in one area may disagree with points of view characteristic of another; we may dislike them heartily. But an effort such as the FEPC, which ignores the fact of diverse historical background in the different regions of this country, will emphasize the disruptive and divisive elements latent in our national unity without advancing the interests of those groups which it pretends to aid.

The answer for such problems as the FEPC proposes to attack is the changing of community standards by voluntary means, principally by education. It requires no special study of history to know that we have, over the years, been making substantial progress in our struggle against intolerance, and against racial, religious, and other types of discrimination. There is no reason to suppose that we have lost our capacity to achieve, without statutory or executive sanctions, further improvements in the art of living, one with another, that will make for a more decent life for all of us, whatever our faith or color or origin.

Surely the proponents of such a measure as the FEPC are aware that there are other agencies than the Government which can work more effectively for the elimination of whatever weaknesses there may be in our present employment practices. They know of the schools, the churches, and the homes of the country, in addition to the countless other nongovernmental organizations which we use in our com-

munity life. To me the inference is plain that they work for a statutory enactment in order to have a leverage for agitation and complaint, to have a Government-supported sounding board for whatever wrongs, real or fancied, that they wish at the moment to publicize.

We are in the early stages of what we believe will be astounding industrial development in Texas. We could not expect it to thrive in an atmosphere of strife and prejudice and onerous restrictions. For our own good, and in our own economic interest we want to make the most efficient use of every bit of manpower and brain power that is available. We know that equality of economic opportunity is just and we are convinced that we can prosper more if we have it.

Recent investigation has disclosed to me that a considerable number of our major industrial enterprises have inaugurated programs measurably broadening job opportunities for Negroes and opening to them skilled trades heretofore reserved for white employees. It is elementary to me that if we are to have stability and advancement, it must be evolved through practices like this. I have reviewed at the same time the files of correspondence exchanged during the war period between the Fair Employment Practice Committee and the War Manpower Commission in Texas. In retrospect the only impression you can derive from a scanning of those files is one of a few busy zealots busying themselves with picayunish fault finding that had only the effect of impeding the war effort and annoying the War Manpower Commission in its efforts to carry out grave responsibilities. It has the appearance of a sort of scold book in a season when scolding was not a desired practice.

No more than we needed it then do we need nor want now a governmental agency which can send unsympathetic and uninformed agents into our cities and counties to aggravate what we consciously recognize as a bad situation, and to foment dissatisfaction and strife.

Texas begs of the Congress not to add more nails to the cross the Negro bears. If such legislation is imposed and the employers of the country take recourse in subtleties, then the minorities in this country are in for sufferings of soul more acutely than they ever have known. We want to be permitted in our own stumbling, democratic way to make adjustments and correct the abuses that we deplore.

Senator DONNELL. Mr. Crozier, have you read S. 984?

Mr. CROZIER. I have.

Senator DONNELL. Are you familiar with the purposes and the philosophy of the bill?

Mr. CROZIER. That is right.

Senator DONNELL. Do you know that it relates to discrimination in employment because of race, religion, color, national origin, or ancestry?

Mr. CROZIER. Yes, sir.

Senator DONNELL. In your testimony, do you have in mind that the bill provides in substance that it shall be unlawful as an employment practice for an employer to refuse to hire, discharge, or to otherwise discriminate against any individual with respect to his terms, conditions, or privileges of employment because of such individual's race, religion, color, national origin, or ancestry?

Mr. CROZIER. I conceived it to have that general purpose. I am frank to say that I have reviewed in preparation of my paper the practices of the old wartime Executive order of FEPC.

Senator DONNELL. You understand that this is one of the unlawful practices, even though you did not know the exact wording of the bill, but you knew that the bill was striking at that?

Mr. CROZIER. Yes, sir.

Senator DONNELL. Mr. Crozier, would you tell us, please, what in your opinion would be the effect in practice upon the relations between the colored race and the white race in the event a bill of this general type were enacted, bearing in mind, however, that the bill includes provisions for mediation and conciliation before resort shall be had to any compulsion through courts?

Mr. CROZIER. I entertain great fear that deplorable conditions would ensue.

Senator DONNELL. Let me give you an illustration. Suppose there is a plant in Houston that employs 500 people and it is going to take on 100 more. Under this bill, if it were in effect and if all of the employees customarily had been white, we will say that 25 colored people came to them and requested that they be included in the 100 to be employed. What, generally speaking, would be the reception? Do you think they would agree to a requirement of that kind?

Mr. CROZIER. I will give you a current picture. The Hughes Tool Co. employs a thousand or more persons. They are one of the concerns that I alluded to in this paper. They broadened the job opportunities, and they are employing and training Negroes in skills. I think they would lose heart and have no interest in such a program with this particular imposition upon them by law. I believe that answers your question.

Senator DONNELL. What would you think would be the effect among the employees of the Houston company if such a law were made?

Mr. CROZIER. My testimony would be that of Mr. Saunders, in that it would vary widely with public acceptance. That would be according to public acceptance in one vicinity, as opposed to another.

Senator DONNELL. In Texas, what do you think would be the reception given to such a bill in the larger cities, such as Houston, Dallas, and Fort Worth, as an illustration?

Mr. CROZIER. I can only indulge in speculation. I fear that in Houston, where there is an immense Negro population, that the results would be very bad. In Dallas, where the proportion is so much smaller, I think the results would not be so bad. We have a situation there, perhaps, to which I should have made reference. Our Mexican problem is one that only Arizona, New Mexico, California, and Texas have. Perforce, we are on the carpet frequently from the State Department by the consular office of Mexico, because of mistreatment of natives. It is a pure product of ignorance on the part of our Anglo citizens. The more ignorant—the nearer they come to what we call "poor white trash"—the more they are prone to mistreat the nationals of Mexico.

Senator IVES. I think that is true in all of this area.

Mr. CROZIER. I am quite sure, Senator, that is so. We had a Congressional Medal of Honor boy denied permission to eat in an eating place within 30 miles of Houston, a couple of years ago. We have had several instances of that.

Senator DONNELL. Was that a Negro?

Mr. CROZIER. He was a Mexican. He was a Texan, and a Texan of several generations in defense. His forebears had been in Texas longer than my forebears, and that is since 1836. The interference of the State Department is seldom helpful, but of course they have to do it. Our experience has been that we straighten those things out better if we are left alone to do it ourselves. When we are goaded by the State Department, it is more difficult.

Senator IVES. I am curious about Texas. I have a great admiration for Texas. How would a State statute of this kind in Texas be received? True, the mandatory aspect of it is only to give it some authority, or otherwise no one would pay any attention to it.

Mr. CROZIER. My judgment is that there is a better approach to the problem. We have attacked that ourselves.

Senator IVES. I would like to get your idea of the proper approach.

Mr. CROZIER. We have attacked the idea of Mexican nationals, and we have thousands of Mexicans, and I say their families have been in Texas as long as mine has. They are as loyal to Texas as I am. We have approached that by setting up a good-neighbor commission. At first, it had no legislative support. It had legislative sanction, but it had no legislative support financially. The legislature, 2 years ago, decided to give the commission some money, and they are doing a splendid job. I think that our approach to the Negro problem should be along the same line. We have some approaches, local committees, to attack that problem, and you will know of it in time. Currently, the Negro is supported by the Society for the Advancement of the Colored People which is seeking to compel the University of Texas to accept a student. The legislature has countered by appropriating a couple of million dollars to establish a university for Negroes in Houston. The Negroes do not want that. They want to attend the University of Texas. That is something that we do not know the result of at the present time. If we are goaded on by that, we will form committees and joint commissions, and the board of regents for that university, composed of whites and Negroes, will then sit down across the board and attack the several problems in good will.

Senator IVES. This bill contemplates a similar approach; that is, not exactly identical, through local councils in the communities, but working the thing out on a broad educational front. We all recognize, in the final analysis, that that is the only sound solution. The idea back of this bill is not primarily compulsion, and I wish that people would not get that in their minds, but the idea is to bring it about through the voluntary approach. The only reason for compulsion is so that somebody will pay attention to it. Otherwise, it will be a dead letter. I think that we do understand each other on that point.

Mr. CROZIER. You asked me about a State law. I think you have a greater need for it in New York. I think it is understandable, and it will be more workable in New York State than it would be in the State of Texas.

Senator IVES. I do not think New York and Texas are too different.

Mr. CROZIER. Your Negro problem is entirely different.

Senator IVES. Perhaps, but we have a lot in common.

Mr. CROZIER. I made this observation during my residence in New York: I lived in Gramercy Park, and I never saw a Negro in mid-

town New York who was loitering the least bit that I did not approach him and talk to him. I never talked to a one that was not a stranded Negro from down South. New York Negroes, when they are in midtown, go about their business and get on back up to Harlem. It is not so with us. That is one little folkway point of difference.

Senator IVES. I do not think that is so much the case now. How long ago was that?

Mr. CROZIER. That was 1931 to 1934.

Senator IVES. I think it has changed quite a little bit since that time.

Senator DONNELL. Is the Mexican problem similar to the Negro problem in Texas, as to the circumstances of the employers in some instances, or do you take the Negro and the Mexican problems and combine them?

Mr. CROZIER. I do not believe I would say that.

Senator IVES. I do not understand what you mean by the Mexican problem.

Mr. CROZIER. It is purely social. They regard the Mexican as a man of color and they deny him a place in the restaurants. They do not let him into theaters.

Senator DONNELL. Do they rank him above the Negroes in the matter of employment? Are they more willing to employ Mexicans than they are Negroes, or is it the contrary?

Mr. CROZIER. That is according to geography. The Negro is accepted as a worker in one part of the State and the Mexican is accepted in the other part. Only Mexicans are skilled sheep shearers. I have clocked them where they sheared a sheep in 3 minutes. They get 22 cents or 25 cents for that. The Mexican I saw was shearing 20 sheep an hour. I never saw a white man that could do that. I never saw a Negro shearing sheep.

Senator DONNELL. What I was trying to get at was the similarity between the problem as relating to the Mexican and that related to the Negro in Texas.

Mr. CROZIER. There is a similarity and yet there is a wide difference.

Senator DONNELL. If this law were put into effect, and we will take the Hughes Co. as an instance to which you refer, suppose that the company wanted 100 more employees, and 20 Mexicans should put in their appearance claiming on some basis that they are entitled to employment of some or all of those available positions. Would there be any condition of resentment among the whites and other employees with respect to the employment of the Mexicans, or would that be readily acceded to?

Mr. CROZIER. There again I have to resort to geography. In Houston there is scant acceptance of the Mexican. In San Antonio it is quite the reverse. The Mexican is part of the daily scene. There are Mexicans in the county office, the district office, and in southwest Texas a large number fill those positions. Along the Gulf coast there are numerous counties in which all the county officials are Mexicans. For instance, Gonzales and Martinez Counties. For example, the same is also true of El Paso.

Senator DONNELL. I was referring particularly to Houston.

Mr. CROZIER. I see.

Senator DONNELL. I would like to know what your observation would be as to the situation I have mentioned in the event that this law

would go into effect and 100 new employees were to be hired and 20 Mexicans appeared and demanded some or all of those jobs. What would be the reaction to that in the city of Houston?

Mr. CROZIER. In obedience to this law, if the Mexicans had the skill, I think they would be employed, but there would be some resentment that would not last long on the part of the white employees.

Senator DONNELL. If the Negroes should appear under the same hypothetical case, would there be the same result or reaction?

Mr. CROZIER. I think that we would resort to what I call "subtleties," and I think it would be hard for the Negro.

Senator DONNELL. I think that in Houston the illustrative case there would be a more ready acceptance of the Mexican than in the case of the Negroes, would it not?

Mr. CROZIER. Yes, sir; I believe so. I think that the voluntary approach in Houston might be impeded by enactment of this law. I assure you that the voluntary approach in Texas is rather widespread. A moment ago you were speaking about the difference in New York City. The Negro's place in the society of Texas has advanced in the last 5 years, during the war period, and subsequently, more than it had 50 years previously.

Senator ELLENDER. To what do you attribute that?

Mr. CROZIER. Senator, perhaps it is attributable to knocking their heads together, getting together in court fights, and so forth.

Senator IVES. That is what they found in New York City to be true.

Senator ELLENDER. Do you not think that that situation can get progressively better on the voluntary basis, and through education rather than by compulsion?

Mr. CROZIER. That is my argument.

Senator ELLENDER. One morning I think that some witnesses testified that if this pending measure should become law it would be harder to enforce in Texas than it would be in Louisiana, Mississippi, or some of the other Southern States. Are you in agreement with that?

Mr. CROZIER. I wondered about that statement. I am not prepared to support it. I just do not know.

Senator ELLENDER. I wanted to ask you if you felt that statement were true.

Mr. CROZIER. Our problem is more complex because of the Mexican and the Negro.

Senator ELLENDER. That may be what the witness had in mind when making the statement.

Mr. CROZIER. We would have lots of bitter resentment, and we would reap some bitter fruit from it.

Senator ELLENDER. Assuming that a Mexican or a colored worker has a skill, to what extent is he discriminated against by an employer in affording to this particular employee equality of economic opportunity?

Mr. CROZIER. Very little, Senator.

Senator ELLENDER. That is a situation that I find in my own State.

Mr. CROZIER. We find that in our ranch country, and it also applies to what I said about the sheep shearer. The Mexican is a man with a ready skill in mechanics, windmill fixing, and things like that. They are in strong demand at all times, and wages are good. We derive at

this from the war effort, and much as I dislike to say it, from some things imposed upon us; our wage scale is better now, and it is continuing to be better without compulsion.

Senator DONNELL. Are there any further questions?

Senator ELLENDER. Yes, Mr. Chairman.

Mr. Crozier, to what extent do you find it, if at all, in factories in Texas, whether it be in Houston or San Antonio, or any other place, where there is a difference in wages paid to a colored man in contrast to a white man, if both do the same kind of a job or both are capable of doing the job?

Mr. CROZIER. From the minor skills down to the common laborer, that thing is ironed out in all cases, until there is no discrimination at all. That is particularly true, and I have first-hand knowledge of the Mexican situation where perhaps 80 percent of them in a given small factory in San Antonio will be of Mexican descent.

Senator ELLENDER. Can you give any further reasons, Mr. Crozier, that a law of that nature could better work in a State like New York or New Jersey than it could in a southern State, or perhaps Texas, for instance?

Mr. CROZIER. I also regret to be asked that question.

Senator ELLENDER. We want your opinion on it.

Mr. CROZIER. I think this, Senators, that your treatment is more cruel to the Negroes.

Senator ELLENDER. They do not understand them, is that what you mean?

Mr. CROZIER. I employ that subtle word that you are more cruel to the Negro in a subtle sort of a fashion than we are in Texas, or in Louisiana. I sincerely believe that.

Senator IVES. I do not understand what you mean. I think it is a matter of definition of what you mean by "cruel."

Mr. CROZIER. Perhaps that is so.

Senator IVES. I do not think that the Negro wants to be the ward of society, the ward of the States, or whatever class you want to put them in.

Mr. CROZIER. May I give you an example?

Senator IVES. I know exactly what you have in mind. I do not think that the colored people in the North feel that they are being treated cruelly at all, by this kind of approach. The Negroes in the South might be; I don't know. I was not speaking of that approach.

Senator ELLENDER. May I interject this thought at this point: It has been my observation since I have been in Washington that many States of the North confer on the colored people certain rights that they hope that these colored people never enjoy or attempt to participate in. For instance, in Pennsylvania, as I pointed out here during these hearings, some small Negro group forced the legislature at Harrisburg to pass a law permitting colored people to swim in the same swimming pool as whites. They even extended that so far as to put the ruling on the statute books, that they should be buried in the same cemeteries, but when the colored people came to exercise those legal rights, trouble occurred. Down South, we never attempt to put such a thing on the statute books as a law, and as something that we do not expect to be respected. If something is done for the advantage of the colored people, we expect those people to use that

privilege, but in some way you have got a lot of laws that have been placed on the statute books of the States of the North that have been placed, in my humble opinion, merely for the appeasement of these people, and when they come to exercise a legal right they get into trouble. Would you say that is one of the reasons that the North may be a little more cruel to the colored people?

Senator IVES. I would like to answer Senator Ellender, because I do not think that New York has any such statute as that in regard to cemeteries. I happen to know of one or two cemeteries where both Negroes and whites are buried. In fact, some members of my own family are buried in those cemeteries.

Senator ELLENDER. Senator Ives, I am not objecting to it, but the idea of having such a law placed on the statute books, when there is no need for it, is what I refer to.

Senator IVES. That is not the case in New York, I repeat.

Senator ELLENDER. There is such a statute in Pennsylvania and certain other States. I say that there should be no reason for it. I would not object to it myself, but what gave rise to the occasion of having that law placed on the statute books so far as such a situation is concerned?

Senator IVES. I am in agreement with you on that. There should not be any necessity for it. There are conditions which are of a "necessity" nature.

Mr. CROZIER. May I continue my indictment of New York?

Senator IVES. Because you know New York and have lived there 4 years, your testimony in my opinion is kind of valuable, so I wish you would continue.

Mr. CROZIER. To sort of soften the impeachment, too. You do not feel that your average citizen feels a responsibility for the welfare of the Negroes individually in the same proportion as we do who live among them and rather close to them, do you? I got into a taxicab one night at midnight to come to Washington at Fourth Avenue and Twentieth Street, where I live, and I did not observe that the taxicab driver was a Negro. I might also mention that I have the unfortunate speech of a Texan. I deplore that, and I detest professional Texans above all things. When I went to New York to live, I determined that I would stay long enough so that no one would detect my speech.

Senator IVES. Do you like any professional "State-isms"?

Mr. CROZIER. No; I do not.

Senator IVES. I do not either.

Mr. CROZIER. To continue with the anecdote about New York, while staying there I went into the dining room the second day of my stay without my friends, and I went to the same table in the dining room. About the third day, I happened to have the same little girl who had been waiting on our group, and she said, "Mister, I have been burning with anxiety to know whether you come from Oklahoma or Texas." With that question, I gave up.

To return to the fellow in the taxicab, he picked me up on Fourth Avenue, and we went up Thirty-fourth Street, and I did not detect that he was a man of color. I made some remarks, after which he turned around and said, "I can tell you are from the South." He said that he was anxious to unlimber or unburden himself to a man from that part of the country. He said that he was seeing, seeing beyond

measure, that his people in Harlem were starving to death and he was barely making a living for his wife and two children. All around him they had relief agencies, but they forgot about the poor Negro.

They are sending their food to the Lower East Side, where they have a polyglot population, while they let the poor Negroes starve to death. I do not think that they continued that practice during the depression, but they were a little calloused about a Negro starving for awhile.

Senator Ives. I learned about that.

Mr. Crozier. That was in 1933.

Senator Ives. I was in the Legislature of New York at that time. That was not brought to our attention, immediately.

Mr. Crozier. That they were being neglected?

Senator Ives. That is right.

Mr. Crozier. That was just one man's testimony.

Senator Smith. I want to ask you one question from what little I have heard of your testimony—whether a bill of this kind would be approved, and whether you approve the finding on the declaration and policy of the bill, and whether your sole objection is to simply making the act compulsory, and whether you would approve a commission that would endeavor to find out where there was discrimination and make recommendations.

Mr. Crozier. Yes, sir. I was relating awhile ago that we have a good neighbor commission that is doing a splendid service in our dealings with the State of New Mexico. I should vigorously support a comparable commission for developing a better spirit and a more sure economic square deal for Negroes.

Senator Smith. You are answering my question affirmatively. It is just the compulsory feature of the bill that you think would cause hard feeling?

Mr. Crozier. That is right.

Senator Smith. It would cause irritation and resistance?

Mr. Crozier. That is right.

Senator Smith. In your general declaration of policy, you want to see equality of economic opportunity without regard to race, creed, and color?

Mr. Crozier. That is right.

Senator Smith. You would like to see some sort of commission set up to recommend that this situation ought to be strengthened out because Mr. X has been discriminated against, in the judgment of this Commission?

Mr. Crozier. I would go that far, but I would emphasize even in that arrangement that it be done on a legal basis as much as possible, with guiding counsel from the State-wide level.

Senator Smith. I think I would agree with you as far as that can be worked out, unless it were just an attempt to bypass the establishment of the principle by local resistance.

Mr. Crozier. Senator, if you get a chance, I would like to have you read my three-page statement.

Senator Smith. I will. I will study all of this testimony.

Mr. Crozier. It stresses my views as to Latin Texas, and I think that my view represents the view of those Latins. It does not represent the view of the poor white trash and the ignorant. Our troubles all stem from that class of people. There is no State which is without that class.

Senator DONNELL. You state that you are present at the request of Gov. Beauford Jester. Are these your views which you are expressing, or are they his?

Mr. CROZIER. In a completely general way, they are both. I talked to the Governor in a general way, and he said that he wanted me to come to Washington and represent him in opposition. He said that he had a telegram from Senator Ellender.

Senator IVES. Do you have the feeling that you have discrimination?

Mr. CROZIER. Of course.

Senator IVES. The reason I raised that point is because of some of the things that you have said. You have indicated here that people are fully qualified for positions, regardless of their race or religion, and that for the most part there is never any question raised, is that correct?

Mr. CROZIER. And increasingly so.

Senator IVES. I am talking about Texas.

Mr. CROZIER. Increasingly so.

Senator IVES. There is still famine existing?

Mr. CROZIER. There is in my precinct and in any precinct in the world. You answer your own question.

Senator IVES. There is in New York, but it is pretty well eliminated now. There will always be a certain amount.

Mr. CROZIER. I dare say that there will be. I believe this: Our condition has improved as much proportionately in Texas without a law as yours has in New York with a law. I believe that sincerely.

Senator IVES. I doubt that, because the figures show the tremendous drop in discrimination in New York over the last few years. I think it has gone down faster than any other State in the Union, with the exception of New Jersey, and Massachusetts.

Mr. CROZIER. I am in the employment business, and I know that figures kind of lie. I operate an employment service, and I find that our statistics are very flexible. They can be made to show many things.

Senator IVES. I am well aware of that.

Senator DONNELL. Thank you very much, Mr. Crozier.

Let the record show that during the testimony of Mr. Raymond Long, Senator IVES, because of an earlier engagement, found it necessary to be absent.

Mr. Quigg is here. It is my understanding that he has not asked to appear but that he is quite willing to appear.

Will you please state your name?

STATEMENT OF FLOYD B. QUIGG, EDITOR-PUBLISHER, WOOD INDUSTRIES WEEKLY, WASHINGTON, D. C.

Mr. QUIGG. Floyd B. Quigg.

Senator DONNELL. You are the editor and publisher of Wood Industries Weekly?

Mr. QUIGG. Yes, sir.

Senator DONNELL. Is that a trade paper?

Mr. QUIGG. Yes, sir.

Senator DONNELL. It is a paper for what industry?

Mr. QUIGG. Lumber, woodworking, and plywood manufacturers all over the United States.

Senator DONNELL. Does it include the southern timber interests and constituencies?

Mr. QUIGG. I think that a third of my subscribers are southern lumbermen and woodworkers.

Senator DONNELL. Mr. Quigg, have you considered S. 984 in the course of your presence here, or earlier?

Mr. QUIGG. I never heard about the bill until today. I happened to read about this hearing this morning. I came over to see what it was about. I thought it was the beginning and I now find it is near the end of the hearing instead. I am glad that I had a chance to listen to Senator Ives before I appeared.

Senator IVES. Were you here when I had my conversation with the gentleman from Walden?

Mr. QUIGG. Yes, sir.

Senator IVES. Then you know my philosophy from that?

Mr. QUIGG. I would not get it from this bill; that is, that same philosophy.

Senator DONNELL. Are you familiar with the lumber industry, by personal observation or otherwise?

Mr. QUIGG. I have been specializing in writing to the lumber industry and related industries for about 18 years.

Senator DONNELL. Do you have all of the Southern States in the lumber area?

Mr. QUIGG. Not all, but most of them.

Senator DONNELL. The southern United States?

Mr. QUIGG. All over the country.

Senator DONNELL. Do you know Mr. Rogers—Mr. James F. Rogers, of Oregon?

Mr. QUIGG. He is one of my subscribers. Therefore, he is a great gentleman.

Senator DONNELL. Would you be kind enough, Mr. Quigg, to give us your view with respect to S. 984, as to whether it applies only to the southern lumber industry?

Mr. QUIGG. First of all, I do not think you can confine it to the southern lumber industry. I think that you will find that it would apply to a number of companies in the Lake States. It would apply to probably hundreds of sawmills out in the Pacific Northwest. Certainly, it would apply to some of the sawmills in Maine. Those that I have talked to did not know anything about this bill, but I know how they work; and, of course, that applies to all of the sawmills in the Southern States that produce southern pine and hardwoods. I am very much surprised that they did not have their association representatives here to testify.

I suppose it is because they have been so busy with the minimum-wage hearing on the other side of the Hill. I have been over there, myself, and I could not have come here if I wanted to, earlier this week, because I could not attend both meetings at once, and I suppose it is the same with them. The best thing that I can tell you at the moment is that what you have heard this morning from Mr. Saunders represents most southern lumbermen's views. It is hard to state a percentage, but I figure that 90 percent of the lumber and wood-

working industry of all the Southern States would agree with the views Mr. Saunders presented. You would find that most of them would look at it that way, although some of them would not have that kind of approach to it. Some of them would probably get more vicious in statements than he did. They would not be able to talk with you so calmly about it, Senator Ives.

Senator DONNELL. Do you mean that they would be more vehemently opposed to it?

Mr. QUINN. Much more so.

Senator DONNELL. What proportion of the remaining 10 percent, over and above the remaining 90 percent, would be opposed to the bill?

Mr. QUINN. Those 10 percent, I would say, might not oppose it, but they would not be for it. Some might not know what they are for or against. Some just would not care.

Senator DONNELL. I thought you meant that that 90 percent would take substantially the view of Mr. Saunders. Also the remaining 10 percent of that number would be more vehemently opposed to the bill than Mr. Saunders.

Mr. QUINN. I did not mean that. The 90 percent would all oppose it, but the 10 percent would not know whether they did oppose it or did not. Some of them would be in favor of it, I expect.

Senator DONNELL. I misinterpreted your meaning of that statement.

Mr. QUINN. I personally am very much surprised at the bill. I, also, have read it since this morning's session. I have not read all of it, but I personally object to the statements of findings of fact and the declaration of policy. I do not think you can support it. I do not think you can support this statement that the practice of discriminating in employment is contrary to the principles of American liberty. The best statement that you can find on the American principles of liberty would be contained in the Declaration of Independence rather than any bill that you might look into now. The Declaration of Independence was signed by a number of people who did so discriminate. The Constitution was adopted by a number of people who did so discriminate. I think that is a matter of history.

At present I live in Alexandria and have lived there for the past year and a half. Alexandria is the home town of George Washington. He certainly was a man who discriminated. He was a slave owner. I think that it is a matter of history.

Since I am here, I object, and I would not like to be here and not object, to these statements, that discrimination is incompatible with the Constitution. I would object to the statement that it "forces large segments of our population into substandard conditions of living." In the first place, I object to the principle that the United States Government can lay down a standard in respect to that. I object to the principle of the United States Government attempting to set up a standard for me. I do not believe that it "foments industrial strife." I question very seriously whether this "deprives the United States of the fullest utilization of its capacities for production." I do not think that you can prove that, one way or the other, except that we can say that the United States has steadily increased its capacity for production, while this bill cannot, that is, as it relates to hiring and firing.

I do not accept the statement that it "endangers the national security and the general welfare." I have seen no evidence, in my own contacts, that it "adversely affects the domestic and foreign commerce of the United States." I seriously question that statement.

I would like to know what "right" means; that is, "the right to employment without discrimination" is declared to be a "civil right of all of the people of the United States." I have been around Washington most of the time since—or half of the time—since 1941, and I have heard much here about rights. This is declared to be a civil right, and it is a little bit obscure to me as to what that means is a "civil right."

Can you declare a thing to be right? I have been very much impressed by your legal ability, and I would like to know.

Senator DONNELL. I am not undertaking to express the power of declaration of civil rights at this time. We would be glad to have your views on it.

Mr. QUINN. I would very much like to know what a right is; that is, a civil right. There has been much said here about what the various rights are. There are many rights. There is a right to employment set forth, and the only place that I can find that in American history, a statement of rights, is again in the Declaration of Independence. The rights are mentioned there as "unalienable rights," but there is nothing in the Declaration of Independence about those unalienable rights being given by the Government. They are "endowed by their Creator," as I recall. They certainly derive from the Creator. Men who are created equal are endowed by their Creator with these rights, and the function of government—if I recall the Declaration of Independence correctly—the function of government is to secure those rights. I do not find in the Declaration of Independence any other function of government except to secure those rights.

If there are any questions that I can answer I would be very glad to do so at this time.

Senator ELLENDER. Aside from your views on the declaration of policy, why, in your opinion, would this law not be workable in the South, or in any other State that you can think of other than what would fall within the limits of the South?

Mr. QUINN. The law could be made to work after a fashion. It would require a very large staff, I should think, and I note that the bill provides for as large a staff as the Commission should decide is necessary. Whether the Congress would then agree with the Commission is questionable, because I think you all remember Leon Henderson stated that it would require 90,000 people to properly administer OPA and he never did get that large a staff.

Senator ELLENDER. How many people would it require to actually administer this as intended?

Mr. QUINN. I do not know; I do not think anybody knows.

Senator ELLENDER. Do you think that the passage of this law would be more effective in order to give to the colored people, and other minority races, this equality of opportunity that we have all been discussing here today?

Mr. QUINN. I think that from my own observation of the lumber industry, some of it quite close at hand in the backwoods down South, you can just multiply the statement of the gentleman from Richmond.

If you will recall, he kept coming back to this: "We would find it hard to refute this," or "We would at least have to come into court to do it, and defend litigation in that respect." The lumbermen that I have talked to about it—and I have listened to them in meetings, and I have heard them discuss it with each other in trying to buy and sell lumber—have been very much worried about the time that they had to take in complying with the regulations. It was not so much the regulations, but what they had to do, that was necessary to meet the requirements of a Federal bureau to satisfy the bureau that they were complying. The man in the bureau has only rules by which he can operate. He does not have authority to go beyond the rules.

This Commission as proposed has possibilities of a tremendous number of rules. To do any good you would have to have a great number of rules. The best comparison would be the OPA.

In lumber, in Chicago, which is my home, the regional OPA had a great many men on the staff that knew nothing about lumber. They had two people there who did know something about lumber. In order to acquaint these people that did not know anything about lumber, out in the district where they had to apply the rules company by company, one man in the Chicago office wrote a large book. I saw it the last time I was in Chicago and it was a tremendous work. It was very well done, but by the time he got the book completed the OPA was out the window. It still was not really complete, even then. You still could not take that large book and do a good job with OPA.

You are going to run into the same job in the administration of this law, as it relates to lumber. I do not speak for any other industry. You have to bear in mind that in the South, alone, there are somewhere between 15,000 and 20,000 sawmill operations. How many woodworking plants, like Mr. Saunders has, I do not know. There are thousands of them. They range from large operations down to very small ones. I visited one in 1943, and took movies that I showed to the Patman committee, where there were seven men in the whole operation. As I recall it, three of them were running the mill and the others were in the woods, or were delivering lumber when it was sawed, to the concentration yard that bought their lumber.

To give you an idea how well a small sawmill operator may understand these Bureau regulations, I came there with an Army lumber buyer. He had a Government shield on the side of his car. (He took me around all over Mississippi to these different small mills.) There was a Government shield on the door of the car, as I mentioned, and the mill operator's wife saw that shield, and she did not want to tell where the mill was. She thought that we were coming there to take her husband into the Army. He had just been reclassified in the draft. He had been given an occupational deferment, but his wife thought that I was the agent of the United States Government to take him into the Army. They were both greatly relieved when I told them that the classification he had meant that he was not going into the Army.

Senator ELLENDER. That is a little off the subject, but do you think that in effect the administration of the law would be rather difficult? Can you assign any specific reasons why, in your own mind, this bill would not operate adequately in the South, and would not obtain the goal that is sought to be accomplished by some of the proponents of

this measure? That is what I am more interested in rather than the OPA, and other agencies.

Mr. QUINN. The only thing I can say is that you will have the same trouble that the OPA had in the operation of this bill to try to achieve these ends. You will have the same problems. All of these thousands of mills in the South would present their problems to you. There are no two trees alike. Out of one tree, there are no two boards alike. You have the same thing in the administration of this bill, that no two men are alike. The people in the South, I have found, resent someone else coming in and telling them how to conduct their business.

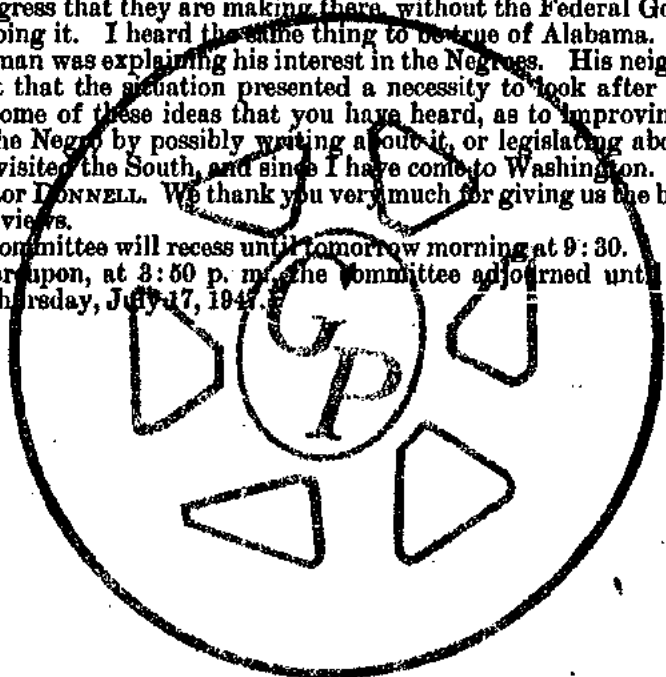
There were some of them that I visited that were inclined to resent my coming there from Chicago, until they found out I was not trying to tell them how to run their business, but simply to listen to them. It took me several years to reach the point where the people in the South did not figure that I was trying to run their business. They resent that. I found numerous instances where they resented what they thought was this Government attempting to tell them how to run their business.

The things that I have encountered in the lumber business bear out what you have been told here today. The man from Texas told about the progress that they are making there, without the Federal Government doing it. I heard the same thing to be true of Alabama. This lumberman was explaining his interest in the Negroes. His neighbors thought that the situation presented a necessity to look after them. I had some of these ideas that you have heard, as to improving the lot of the Negro by possibly writing about it, or legislating about it, until I visited the South, and since I have come to Washington.

Senator DONNELL. We thank you very much for giving us the benefit of your views.

The committee will recess until tomorrow morning at 9:30.

(Whereupon, at 3:50 p. m., the committee adjourned until 9:30 a. m., Thursday, July 17, 1947.)



ANTIDISCRIMINATION IN EMPLOYMENT

THURSDAY, JULY 17, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 9:30 a. m., in the committee room, Capitol Building, Senator Forrest C. Donnell presiding.

Present: Senators Donnell (presiding), Smith, Ives, and Ellender. Senator DONNELL. The committee will be in order.

The first witness is the Honorable Fielding L. Wright, the Governor of the State of Mississippi.

Governor Wright.

STATEMENT OF HON. FIELDING L. WRIGHT, GOVERNOR OF THE STATE OF MISSISSIPPI, JACKSON, MISS.

Senator DONNELL. Governor Wright, will you be kind enough to state your full name and your address?

Governor WRIGHT. Fielding L. Wright, Jackson, Miss.

Senator DONNELL. You are the present Governor of the State of Mississippi?

Governor WRIGHT. Yes, sir.

Senator DONNELL. When were you elected Governor of Mississippi?

Governor WRIGHT. I succeeded to the governorship on the 2d day of November 1946, at the death of Gov. Thomas L. Bailey.

Senator DONNELL. Governor, would you state, please, so that we may have something of your background, where you were born and, if you have no objection, when?

Governor WRIGHT. I was born on the 16th day of May 1895, at Rolling Fork, Miss.

Senator DONNELL. Have you lived all of your life, this far, in Mississippi?

Governor WRIGHT. Yes, sir; I have lived all my life in Rolling Fork, where I was born.

Senator DONNELL. You have undoubtedly been over large portions of Mississippi in the course of your experience?

Governor WRIGHT. Yes, sir.

Senator DONNELL. And are widely acquainted in that State, undoubtedly. Have you had occasion, Governor, also to visit, from time to time, other States in the southern section of our country?

Governor WRIGHT. Yes, sir.

Senator DONNELL. Are you familiar, generally speaking, with the industrial conditions prevailing in the State of Mississippi?

Governor WRIGHT. Generally speaking; yes, sir.

Senator DONNELL. What is your educational background, Governor.

Governor WRIGHT. I finished high school, went to Webb School, Bell Buckle, Tenn., and the University of Alabama.

Senator DONNELL. Did you receive a degree at the University of Alabama?

Governor WRIGHT. No, sir.

Senator DONNELL. What was your special study in the university?

Governor WRIGHT. Well, I was preparing to study law but I didn't complete it. Then I read law and passed the bar.

Senator DONNELL. Did you enter the practice of law then?

Governor WRIGHT. Yes, sir.

Senator DONNELL. What was the year in which you entered the practice of law?

Governor WRIGHT. I was admitted to the bar on September 6, 1916.

Senator DONNELL. And you have practiced law in Mississippi from that time until your entry on official duties?

Governor WRIGHT. Well, I really didn't practice until after the First World War, because I went into the Army shortly after that. Then I began to practice actively in 1919.

Senator DONNELL. Will you tell us, briefly, something of your experience in the war; what rank you had and where you served.

Governor WRIGHT. I was a private first class.

Senator DONNELL. Where did you serve?

Governor WRIGHT. I served in France, One Hundred and Forty-ninth Machine Gun, Thirty-eighth Division.

Senator DONNELL. And you then came back to this country and entered the practice of law?

Governor WRIGHT. Yes, sir.

Senator DONNELL. What has been the general nature of your practice, Governor?

Governor WRIGHT. I had entered the practice of law, Senator, before I went in the Army; but, as I say, just for a short time. I really hadn't done much practice.

Senator DONNELL. And after you returned from the war, the practice upon which you entered, I presume, was of a general nature?

Governor WRIGHT. Of a general nature; yes. I was practicing in a small country town of about 1,400 people.

Senator DONNELL. And you practiced law in the State courts and I presume the Federal courts in Mississippi?

Governor WRIGHT. Yes, sir.

Senator DONNELL. Are you a member of the bar of the supreme court of your State?

Governor WRIGHT. Yes, sir.

Senator DONNELL. Now, Governor, will you proceed with your statement.

Senator ELLENDER. Governor, I notice that you have a prepared statement. Would you prefer to read and not be interrupted, or just what is your desire?

Governor WRIGHT. It doesn't make any difference. I can read it if that is the custom. If you want to interrupt me, that is all right.

Senator DONNELL. Very well, Governor, if you will proceed with your statement, then, we will feel free to interrupt you if we so desire.

Governor WRIGHT. I accepted the invitation to come to Washington to offer testimony in opposition to Senate bill 984, National Act Against Discrimination in Employment—I might say here, if you don't mind my interrupting—

Senator DONNELL. Not at all.

Governor WRIGHT. The telegram I received from Senator Ellender, of course, asked me to come to Washington and offer testimony for or against Senate bill 984; but I am offering testimony in opposition to Senate bill 984.

Senator DONNELL. Governor, have you read the detailed portions of the bill, or are you proceeding generally upon the theory of the bill as you understand it to be?

Governor WRIGHT. I have read the bill, Senator, but let me say this in order that I may make myself entirely clear. I got into Jackson at midnight Saturday night—from the campaign, you know, in which I have been speaking over the State—and I read the bill. I wrote this statement Sunday. I have not analyzed it too carefully, only just read it over, but I haven't given it any careful study, of course—as careful a study as I would have liked to have done if I had had plenty of time; but I have read the bill.

Senator DONNELL. All right; proceed.

Governor WRIGHT. I accepted the invitation to come to Washington to offer testimony in opposition to Senate bill 984 not simply because it is my belief that it is a bill inimical to the best interests of Mississippi and the South, but because it is also my firm conviction that this proposed piece of legislation is dangerous to the United States and all of the people of our Nation.

In appearing in opposition to this proposed measure, it is my belief that we represent not only the people of Mississippi, but that we represent the best interests of all of the people of the United States.

One of the fundamental concepts on which this great Government of ours was founded is the belief in individual freedom and individual initiative. This was the motivating spirit which impelled our forefathers to break away from the old countries and to seek a new life in a new world. This belief further inspired them to wrest control of their new land from the mother country and form a new nation—a nation which had as its fundamental law the fairest and most just document of government ever conceived by man—the Constitution of the United States.

Senator DONNELL. Governor, if you don't mind my interrupting for just a moment, in regard to your own biography, when did you first enter public life?

Governor WRIGHT. 1928.

Senator DONNELL. And in what capacity?

Governor WRIGHT. I went to the State senate in 1928. Then I was elected to the house of representatives.

Senator DONNELL. The National House of Representatives?

Governor WRIGHT. No, sir.

Senator DONNELL. Or in the State?

Governor WRIGHT. The State. I served in the house from 1932 to 1936. Then I served as speaker of the house from 1936 to 1940. Then

I served as lieutenant governor from 1944 until Governor Bailey's death last November.

Senator DONNELL. And you are now a candidate for election to the office of Governor and are serving as Governor at this time?

Governor WRIGHT. Yes, sir.

Senator DONNELL. Go right ahead.

Governor WRIGHT. Now, is it the committee's desire that I read this, or do you just want it put in the record?

Senator DONNELL. We will put it in the record in any event, Governor; but we should like to have your ideas and if you think you can best express them by reading it, it will be fine; or if you prefer to give us, extemporaneously, your views, that will be equally acceptable to the committee. We suggest that you use your own judgment in regard to the matter.

Governor WRIGHT. I shall be glad to read it but I just thought, since time is limited, I might make some statements independently of this.

Senator DONNELL. We want to hear you fully, Governor. You go right ahead.

Governor WRIGHT. With this Constitution as the fundamental law of the land, certain broad rights were guaranteed to the individual citizens of the country. The Constitution, with its amendments, guarantees to every individual the right to do things for himself. And under its mantle the individual is limited in his achievements solely by his abilities to create and produce.

Under the protection of this great document and inspired with the breath of freedom and free enterprise which is the very essence of our country's greatness, the United States of America has grown into the strongest nation in the world. Americans pushed their original limited frontiers 3,000 miles across the North American wilderness. American ingenuity developed and produced an amazing assortment of machines and devices for the improvement of our way of life and for the comfort and convenience of our citizens. American courage and productive genius enabled us to withstand every foreign war and to survive a period of bloody civil strife. And in the last great conflict American production supplied the world and produced in unbelievable time an unprecedented amount of material of every kind.

The United States of America grew great on the system of free enterprise—on a system which was unhampered and unfettered by anything like the dangerous legislation which we now consider.

And it has always been one of the outstanding talking points for our way of life that here in the United States a man is limited only by his own abilities. A man may rise from the most humble home in the land to the highest office in the Nation. A man may come from the poorest of homes, yet build a financial empire.

No, it didn't take an act such as proposed in Senate bill 984 to bring Andrew Jackson from the hills of Tennessee to the Presidency. It didn't take an act like this to raise Abraham Lincoln from the humble log cabin in Kentucky to the highest office within the gift of his people. It didn't take such an act to assist Henry Ford and John D. Rockefeller in building their vast industries from humble beginnings. No, gentlemen, and it did not take an antidiscrimination act to lift Booker T. Washington and George Washington Carver into positions of great attainment and leadership and to a high level of respect among both white and black alike.

They all achieved because this was the United States and because our system by its very fundamental nature allows men of ability to create and build.

It does not take the passage of legislation of this kind to guarantee any rights to our citizens. But rather, it seems to me, the passage of this legislation would deprive our people of more than it could ever give them.

Every American is a potential employer, a potential owner of a business. Each of our people has the opportunity to develop something for himself. And in the development of any business, any man who invests capital, any man who operates a business, must have the freedom to choose the type of employees he desires to the end that his employees will be congenial and to the end that the clientele which deals with his business will be satisfied. That is the only sound manner in which a business can operate.

Senate bill No. 984, the National Act Against Discrimination in Employment, applies to employer and labor union alike in denying these fundamentals just set forth.

It states in part—now, that is quoting from the bill.

Senator DONNELL. Do you have a copy of the bill before you, Governor?

Governor WRIGHT. I have it here.

Senator DONNELL. All right.

Governor WRIGHT. There is no use in reading that quotation, I suppose?

Senator DONNELL. You are quoting now from section 5 (a) (1), beginning with the words "It shall be an unlawful employment practice" and ending, as far as your quotation is concerned, with the words "origin or ancestry."

Governor WRIGHT. Do you want me to read it?

Senator ELLENDER. Surely.

Senator DONNELL. That is right.

Governor WRIGHT. There is quite a bit of quotation there.

Senator DONNELL. It will just save time if you go ahead and read it. Go right ahead.

Governor WRIGHT. All right.

It states in part (sec. 5 (a) (1)) :

It shall be an unlawful employment practice for an employer to refuse to hire, to discharge, or otherwise discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry. * * *

It states further in the same section, paragraph (b) :

It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin, or ancestry.

In section 7 (a) it is stated :

Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the Act has engaged in any unlawful employment practice, the Commission shall investigate such charge, and if it shall determine after such preliminary investigation that probable cause exists

for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion.

The enforcement procedures are further outlined from that point.

Here, then, is an act by which the Congress of the United States will set up the most complete program ever devised for regulating, controlling, and harassing American businessmen and labor unions. It takes no prophet to foresee that under these provisions there will arise such an amazing and conglomerate mass of claims, charges, and investigations that the employer of more than 50 persons and the labor union of more than 50 members will be continually harassed and troubled—even in instances where he is not actually at fault.

For, under this act, it will be a very simple matter for any person who is refused a job or discharged from a job, or who has any grievances whatever against his employer or against his union to say that he was discriminated against under the provisions of the act.

And, from a practical standpoint, we all know that no employer is going to deny employment to any person—regardless of race, creed, or color—when the addition of that person to the pay roll of the business will be an asset to the business, in keeping with good business practices and in accordance with good practices for the promotion of harmonious relations between his other employees. That is a simple law of good business judgment and good business practices. In order for a business to prosper, an employer must be allowed discretion along these lines; and in order for a union to properly perform its functions for the greatest good of its membership it must have similar discretion.

The United States Government has no right under any conceivable interpretation of the Constitution to say to an employer that he must employ or to a union that it must accept any individual—regardless of race, creed, or color—when the employment of such person would be detrimental to the employer's business or his acceptance would be conducive to promoting unrest within the union.

This act will place the Government of the United States in private business and union activities on an unprecedented scale. It will create a vast bureau of undreamed-of proportions. It is a monstrous threat to free enterprise, unworkable and unwieldy.

If this act is passed by the Congress we will see a first-hand exhibition of the old nursery rhyme, "There was an old woman who lived in a shoe; she had so many children she didn't know what to do." For truly the commission proposed would have more troubles and complaints than it could possibly deal with—and I am satisfied that most of them would probably be unjustified, yet complaints which would have to be considered, nevertheless.

I think we may as well realize that the Government by law can never adjust, never regulate, and never control every phase of an individual citizen's existence. The Government by law cannot guarantee every person a job, nor can it guarantee that he will keep that job. That must be determined by an individual's ability and productive capacity.

This country was developed by the initiative and courage of its people. Have we so lost that courage that we must be regimented, directed, and driven in every phase of living by the Government through such legislation as this?

I don't believe such regimentation necessary. I know that the American people do not want this legislation. And I know that it can never be enforced, because no law can be enforced which the people detest—we've seen too many examples of that already.

I think that one of the fundamental fallacies in American thinking today is found in the all too prevalent idea that the enactment of a law can cure everything. Laws can be no more effective than the citizens want them to be. We can enact legislation of every kind and character for every conceivable purpose in the Congress of the United States and in every State legislature throughout the Nation, but unless the people of the United States and the individual States want the laws enacted to be effective those laws can never work.

It is my considered opinion that laws such as the proposal to create this Commission enter a field of human relationships which was never contemplated by our Constitution as a field for legislation and which are absolutely unworkable. Men throughout all ages have found it convenient and advisable to band themselves together for the promotion of common interests and in the development of common endeavors.

Senator DONNELL. Governor, may I interrupt you? Your reference to your view that the proposal to create the Commission would involve laws never contemplated by the Constitution as a field for legislation calls to my mind the question as to whether or not you have given attention to the constitutionality itself of this act.

Governor WRIGHT. Well, I haven't studied it carefully from that angle. As I said before, of course I haven't gone into any Supreme Court decisions on the constitutionality of it because I haven't had the opportunity; but the statement I make in there is that my idea of the Constitution is that it just never was intended that you should try to legislate, you can't legislate morals, you can't legislate human relationships, as I see it, especially the national Congress.

Now, we have situations in Mississippi, Senator, and we have situations in the South that no one could understand unless he visited that section of the country.

I wish the members of this committee who are investigating this would come down there and spend some time with us.

I would like to tell you this. I was born and lived all my life in a county in which the Negroes outnumbered the whites 3 to 1. In the other county I represented in the legislature, the Negroes outnumber the whites 5 to 1.

Senator DONNELL. What were the approximate populations of those counties, in numbers?

Governor WRIGHT. Well, in my county it is about 17,000.

Senator DONNELL. About 17,000; and you say the Negroes there outnumber the whites?

Governor WRIGHT. Three to one.

Senator DONNELL. Three to one; that is, you mean that there were three Negroes to each white?

Governor WRIGHT. Yes, sir.

Senator DONNELL. That would be about 4,000, in round figures, of whites; or 4,500, and 12,500 of colored.

Governor WRIGHT. That is right.

Senator DONNELL. That is about the way it would run there. What was the other county?

Governor WRIGHT. Issaquena County.

Senator DONNELL. I mean in numbers.

Governor WRIGHT. Well, that is a small county. I doubt if the population of that county is over 7,000.

Senator DONNELL. And that was where it was 5 to 1?

Governor WRIGHT. Yes, sir.

Senator DONNELL. It would be slightly over 1,000; say, 1,100 or so whites and 5,900, approximately, of colored?

Governor WRIGHT. That is about the proportion; yes, sir.

Senator DONNELL. Thank you, sir; go right ahead.

Senator ELLENDER. Governor, with such a large difference in number of whites and colored in those two counties, what was the relationship there between the races? Did you have any difficulty, any trouble of any kind?

Governor WRIGHT. No, sir; that is what I was going to say. For 52 years I have lived in that county and there has never been any trouble between the whites and the Negroes, or in Issaquena County.

Now, on the plantations in that section of Mississippi, there certainly is no discrimination in any way. There is segregation, of course, and there is going to be segregation and there ought to be segregation.

But I know in that section of the State, where tenant farmers, both white and colored—

Senator ELLENDER. Do they obtain lands from the same owner?

Governor WRIGHT. They live as neighbors; work the same plantation; get the same monthly allowance for living, based, of course, on the size of the family.

Senator ELLENDER. How about the large plantations? I presume that they are manned mostly by colored?

Governor WRIGHT. Well, they predominate, of course.

Senator ELLENDER. Do you have any colored foremen?

Governor WRIGHT. Yes, sir.

Senator ELLENDER. Colored overseers?

Governor WRIGHT. I know of some of the largest plantations there that have Negro overseers.

Senator DONNELL. And white labor under those overseers, in part?

Governor WRIGHT. They are practically all colored under those. Of course, they have some whites that might be mechanics, but I wouldn't say they were directly under the plantation managers. But you have white tractor drivers; you have colored tractor drivers.

Senator ELLENDER. In other words, there is no discrimination made as between whites and colored so long as they can perform the job assigned to them?

Governor WRIGHT. No, sir; there is not.

Senator ELLENDER. Now, would say that the same method prevails throughout Mississippi, as far as you know?

Governor WRIGHT. Well, I know this, that in the city of Jackson, which is the capital of the State of Mississippi, there are some hotels that employ exclusively Negro bell boys and waiters. There are some hotels that employ exclusively white. They don't mix them but they are employed.

Senator ELLENDER. They make no difference except that they don't mix them?

Governor WRIGHT. That is right. They don't mix them.

Senator ELLENDER. Well, now, haven't you acquired quite a few prominent colored doctors and lawyers in the State of Mississippi?

Governor WRIGHT. Yes, sir; we do have a number in Jackson and a number in Vicksburg that I know of. I know them personally.

Senator ELLENDER. You know them, and do you know of your own knowledge of any what I may call "glaring instances" of discrimination as among the colored and the white that would give rise to the enactment of such legislation as this?

Governor WRIGHT. No, I don't; and I say this—and I am serious about this—this legislation would set the State of Mississippi—and I am speaking particularly about the State of Mississippi because I know it better than I do the other Southern States—but it would set us back in the progress that we have made, in the relationship between the races in Mississippi, particularly in the last few years.

Senator DONNELL. In what way would it set the State back, and why?

Governor WRIGHT. Here is the way it would do it, Senator: The relationships between the races in Mississippi have always been good. Now you read a lot about what goes on in Mississippi. I could give you some very glaring illustrations of how those reports are entirely unfounded on fact. But the relation between the races in Mississippi is good. There is no racial tension, there is no racial feeling there; and in the last few years, Mississippi has been making great progress.

For instance, in the last session of the legislature we provided for the building of new schools; provided money for the building commission to build even local schools back in the rural areas, for both white and Negro. There is no difference in it at all.

Now, that is a situation that has built up, come about, because of the way the two races have been getting along.

You know, we have a population in Mississippi that is 51 percent white and 49 percent colored.

Senator DONNELL. What is the total population of the State?

Governor WRIGHT. Just slightly over two million.

Senator DONNELL. Proceed.

Governor WRIGHT. In the many and varied organizations which have been formed the members thereof have reserved the right to choose the types and kinds of persons with whom they associated. This has been essential to the success of the organizations. This is particularly true of any business organization and any labor union.

If the Congress of the United States says to the people of the United States that they must be hamstrung with an act such as Senate bill 984, then the Congress of the United States may just as well tell every church, every school, every club, every fraternal order and every other type of organization who can and who cannot participate in its membership—and this will be the first step in that direction, if this bill is enacted into law. It is my belief that this type of legislation is the most dangerous legislation ever presented to an American legislative body—either the Congress of the United States or any State legislature. Once this type of legislation is adopted there is no end at which it may be brought to a stop.

Senator DONNELL. What do you mean by that, Governor?

Governor WRIGHT. I mean that when you start this type of legislation, as I view this, it is not a matter that the national legislature

can handle, if it can be handled by legislation. Senator, I think it is local. I think there are conditions that exist in various sections of this Nation that no national law can remedy. I think, if you would visit our section of the country, you would see the conditions are entirely different from what they are in New York. If any legislation could ever cure any of the ills that exist, if they do exist, it would have to be local legislation and not national.

Senator DONNELL. You say also, "It is my belief that this type of legislation is the most dangerous legislation ever presented to an American legislative body—either the Congress of the United States or any State legislature." Would you give us your views in regard to legislation by the State, the legislature of your State, let us say, on that subject? Do you think that danger would be inherent in the legislation, even if passed by the legislature of your State rather than by the Congress of the United States?

Governor WRIGHT. Well, I think if it was considered and passed by State legislature, why, it wouldn't be dangerous.

Senator DONNELL. What I was trying to get at, just what do you mean in your sentence by saying that "this type of legislation is the most dangerous legislation ever presented to an American legislative body—either the Congress of the United States or any State legislature"?

Governor WRIGHT. Well, I mean that this legislation is the most dangerous in that if you begin to control private business and if you begin to control private citizens by legislation, then you are opening a field of legislation that, my idea is, would be just going to break down what we consider to be the foundation on which this Nation has gone to greatness.

Senator ELLENDER. In other words, this is simply a starter—

Governor WRIGHT. This is the opening wedge.

Senator ELLENDER. In a field that would affect private enterprise. If you can go as far as this bill does, you may go in some other direction that would further hamper private enterprise.

Governor WRIGHT. Yes.

Senator DONNELL. That is what you mean by the sentence that "there is no end at which it may be brought to a stop"?

Governor WRIGHT. That is right.

Another point which we may consider with regard to this legislation is that it is minority legislation. It is sponsored primarily for the aid of certain minority groups.

Our theory of government is based on the rule of the majority. And while our Government seeks to protect the rights of all the people it is inconceivable that legislation should be enacted which is wholly and totally in conflict with the will of the majority and the interests of the majority and which is solely in the interests of a minority. This bill is definitely minority legislation, and minority legislation is a definite and distinct danger to the common weal.

Whenever the Government of the United States says by law to any employer or to any union that either is not free to use discretion in choosing employees or members, then democracy in the United States is on the downgrade and on the road to decay and ruin. I strongly believe that the passage of this legislation will react directly to the advantage of those radical forces with which our theory of govern-

ment and way of life are in direct conflict today. It is also my considered opinion that the enactment of this legislation will lead to strife, turmoil, confusion, and even bloodshed—simply because the Congress cannot create by law practices which are contrary to the laws of nature and to the laws of God.

If the forces behind this bill succeed in obtaining its passage it will be but the beginning of a long series of bills aimed at breaking down our way of life. In their subtle schemings they will seek to force through legislation aimed at preventing individuals from banding together in fraternal orders, civic orders, churches, and every other type of organization except in accordance with the principles which they advocate and along the lines which they set forth. Yes, this bill will be but the first step—and a big step—toward strict regimentation and governmental direction along a path which the Constitution of the United States never contemplated and in a field wherein laws cannot be made enforceable.

We, of the South, feel that this legislation is aimed primarily at our section, because the Southern States comprise the geographical area wherein there resides the largest minority group in this country. We are becoming sick and tired of being the political dumping ground for all types and kinds of legislation aimed primarily at our section of the country.

This is one Nation—a Union of sovereign States, so conceived by the founding fathers and so created by the instrument which gave us national life—the Constitution of the United States. Each of the 48 States has made great contribution to the development and to the welfare of the Nation. Each has given a full share of its brave sons in bitter warfare for the preservation of our ideals and our liberties. The sons of the South, of the North, of the East, and of the West have all written glorious deeds of heroism into our history in each of the wars which we have successfully maintained.

Why, then, is it, that here in the United States Congress we see repeated efforts made to enact legislation aimed primarily at the South and southern institutions?

As far as I know, there is no need for a Commission of the type proposed by Senate bill 984 in any section of this Nation. Wherever he has the ability and the will to work, any man—regardless of race, creed, or color—can achieve, and this is true in the South and every other section of the country. And wherever a person does not have the ability, does not have the will to work, and does not fit into a business organization or a labor union, then the Congress of the United States can't make such person fit by legislation such as this, and you can't escape it.

In the South there are countless instances and examples of industries in which the great majority of employees are Negroes. These Negro employees are fairly treated and there is no discrimination against them. There are countless businesses which Negroes have themselves developed, and in which they are prospering.

There are unlimited opportunities in the South and every other section today for any person of courage, determination, and ability to succeed and to achieve. Throughout the South and throughout the Nation we have countless examples of achievement by members of every race. We have many, many examples of achievements by Ne-

gross in every field of endeavor in Mississippi and throughout the South.

Creation of this Commission will not contribute one iota to opportunities for achievement. There is no such thing as equalization in a democratic society. Democracy is based on competition in a system of free enterprise. And whenever you try to equalize things by legislation, then you will fail in your efforts to pull the weak up and will only succeed in pulling those who have achieved down. Whenever we, in this country, start trying to control every phase of human endeavor and human relationships by legislation—and this bill is a gigantic jump in that direction—then we will have insured the doom of our democracy for we will have played directly into the hands of those who believe in the theory of strict regimentation and the totalitarian way of life. Any such doctrine as that espoused by this legislation is bound to be repugnant to anyone who believes in the principles of freedom and liberty as set forth in the Constitution.

If Americans are to have jobs, business must prosper. If business is to prosper employers must generally have discretion as to the character of their employees. There are many types of businesses in this Nation where Negro employees wouldn't fit into the picture. There are many types of businesses in this Nation where various other racial groups wouldn't fit into the picture. There are many types of businesses in this Nation where white employees wouldn't fit into the picture. That's just a fact, and everyone with any fairness and sense of justice knows it.

There can only be one right way to resolve this question. Leave employers free as they are now to employ only whites, if they so desire. Leave them free to employ only Negroes if they so desire. Leave them free to employ only Baptists, or Methodists, or Catholics, or Jews, or any other faith or race if they so desire. If you don't, I foresee a most unhealthy and unwieldy stifling of American business and American enterprise, with the ultimate result being business failures, less jobs, unemployment, hunger, and ultimately strict regimentation.

Senator ELLENDER. Governor, have you come across any discrimination in your State that is attributable to the fact that a man or a woman is a Baptist or a Catholic or a Methodist?

Governor WHIGG. No, sir. I am sure there is no such thing there. The mayor of my home town for the last 28 years has been a Jew. I know there is no such discrimination.

I don't like this proposal to create this Commission, because I know it is contrary to the best interests of all Americans and because it in itself is un-American.

Since this is one Nation, and since we believe that this legislation is aimed primarily against the South, we say to you, "Let the South solve its own problems." We are more familiar with those problems than anyone else. We live with our problems, just as the people of Maine, New York, Illinois, Colorado, and California live with their problems. It is our belief that the people of other States are more familiar with their problems than anyone else and that they should be allowed to solve them, because they have the opportunity to better understand them. We expect and demand that same privilege and right, for that is the American way.

Since the Negro race is the largest minority group by far within the United States, and since this legislation is proposed primarily for the benefit of the Negro, in bringing this brief to an end, I would like to bring to the committee some quotations from a great American on the race question.

This man is hailed as the Great Emancipator; he is described by many as the greatest of the Presidents; and advocates of various types of legislation, such as this, often point to him as their source of inspiration. But, I believe, that if he were living today, this man, Abraham Lincoln, would be opposed to this type of legislation.

You know, Senator, it astounds me sometimes the way some people look upon us in the South. Now that brings to my mind that several months ago there were two gentlemen from New York in the Governor's office. That is your home city, Senator Ives; and on the mantel of the Governor's office is a quotation from Abraham Lincoln, with his name.

One of the gentlemen looked across there and he walked over and turned to me and said, "You know, I wouldn't believe this if I hadn't seen it with my own eyes."

I said, "What was that?"

"I wouldn't believe that anywhere in the South you would see the name of Abraham Lincoln displayed publicly and especially so in the office of a man holding public office in Mississippi."

I said, "Well, you write in one of the great magazines in the Nation today and you have had a lot of uncomplimentary things to say about Mississippi and the South; and that is the reason for it—you just don't know us."

I said, "Now, we think Abraham Lincoln was a great American. The people in the South are just as proud of him as the people in the North or any other section; but you think that we wouldn't recognize him as a great American citizen."

"Well," he said, "I wouldn't believe it if I hadn't seen it with my own eyes." Yet he is the head of one of the great magazines published in this country.

Listen to him, speaking on the Negro question—

Senator DONNELL. That is Abraham Lincoln that you are speaking of now?

Governor WRIGHT. Yes, sir; I am speaking of him now, not this fellow that was talking to me. He said:

Anything that argues me into his idea of perfect social and political equality with the Negro is but a specious and fantastic arrangement of words. * * * I have no purpose to introduce political and social equality between the white and the black races. There is a physical difference between the two, which, in my judgment, will probably forever forbid their living together upon the footing of perfect equality; and inasmuch as it becomes a necessity that there must be a difference, I, as well as Judge Douglas, am in favor of the race to which I belong having the superior position.

Now, that is—

Senator DONNELL. This is you, your views from here on?

Governor WRIGHT. Yes, sir; it is not Mr. Lincoln right now.

Senator DONNELL. Go ahead.

Governor WRIGHT. To my way of thinking, this clearly indicates the thinking of a man who has been held up repeatedly as the chief support for so many propositions such as this. It clearly gives his

views on the subject of equality. He believed in the superiority of that of which he was a part—the white race—just as any man having any pride and self-respect believes in the organization, community, or race of which he is a part.

Again, Mr. Lincoln said on another occasion :

While I was at the hotel today, an elderly gentleman called upon me to know whether I was really in favor of producing a perfect equality between the Negroes and white people. While I had not proposed to myself on this occasion to say much on that subject, yet as the question was asked me I thought I would occupy perhaps 5 minutes in saying something in regard to it. I will say then that I am not, nor ever have been, in favor of bringing about in any way the social and political equality of the white and black races—that I am not, nor ever have been, in favor of making voters or jurors of Negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say in addition to this that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I as much as any other man am in favor of having the superior position assigned to the white race.

I say upon this occasion that I do not perceive that because the white man is to have the superior position the Negro should be denied everything. I do not understand that because I do not want a Negro woman for a slave I must necessarily want her for a wife. My understanding is that I can just let her alone. * * * I will add to this that I have never seen, to my knowledge, a man, woman, or child who was in favor of producing a perfect equality, social and political, between Negroes and white men. * * * I will add one further word, which is this: That I do not understand that there is any place where an alteration of the social and political relations of the Negro and the white man can be made except in the State legislature, not in the Congress of the United States. * * *

Senator DONNELL. Was that the observation of Mr. Lincoln in one of the debates with Douglas?

Governor WRIGHT. With Douglas; yes; that is right.

And again he said:

Judge Douglas has said to you that he has not been able to get from me an answer to the question whether I am in favor of Negro citizenship. So far as I know, the judge never asked me the question before. He shall have no occasion to ever ask it again, for I tell him very frankly, that I am not in favor of Negro citizenship. * * * Now, my opinion is that the different States have the power to make a Negro a citizen under the Constitution of the United States, if they choose. * * *

Twice, in that speech, Mr. Lincoln, who is so often held up as the great exponent of the doctrine of equality, specifically stated that he believed racial matters were matters for the concern of State legislatures. I believe that would be his position today. And this Congress has before it a repeated pattern of rejections of legislation similar to this by the various State legislatures throughout the country—excepting a very few—because the legislators in those States know such legislation is unwise, unworkable, and unconstitutional.

Now, let me say here that that is my information and I am not entirely sure as to the number of those States. My information is that it has been attempted in 20.

Senator ELLENDER. You mean legislation of the character now before us?

Governor WRIGHT. Yes, sir. I wouldn't want to make that flat statement without saying that that is just the information that I have.

Senator IVES. Governor, I may have a little comment to make when you are concluded.

Governor WRIGHT. That is all right, Senator; I told them they could interrupt me anyway.

Senator IVES. That is all right. I like to listen to you.

Governor WRIGHT. Mr. Lincoln further said:

There is a natural disgust in the minds of nearly all white people at the idea of an indiscriminate amalgamation of the white and black races. * * * I have said that the separation of the races is the only perfect preventive of amalgamation. I have no right to say all the members of the Republican Party are in favor of this, nor to say that as a party they are in favor of it. There is nothing in their platform directly on the subject. But I can say a very large proportion of its members are for it, and that the chief plank in their platform—opposition to the spread of slavery—is most favorable to that separation.

Such separation, if ever effected at all, must be effected by colonization, and no political party, as such, is now doing anything directly for colonization. Party operations at present only favor or retard colonization incidentally. The enterprise is a difficult one; but "where there is a will there is a way," and what colonization needs most is a hearty will. Will springs from the two elements of moral sense and self-interest. Let us be brought to believe it is morally right, and at the same time favorable to, or at least not against, our interest to transfer the African to his native clime, and we shall find a way to do it, however great the task may be. The children of Israel, to such numbers as to include 400,000 fighting men, went out of Egyptian bondage in a body. * * *

Thus spoke Abraham Lincoln on race relations.

Senate bill 984 proposes to the Congress a dangerous piece of legislation. It proposes to embark this Nation on a course which can only lead to regimentation and to decay. It will be but the first step in a long series of similar measures which will eventually sweep away all barriers and lead ultimately to the destruction of all races in this country and to the mongrelization of our people. Recorded history has proved over and over again that mongrelization leads to downfall.

This bill, with all its hidden implications, with its dire threats to our way of life, with its direct step toward strict regimentation, should not be forced upon our system of free enterprise and private initiative. For by its passage a step will be taken toward our own self-destruction.

Senator DONNELL. Senator Ellender, do you desire to ask the Governor some questions?

Senator ELLENDER. No, Senator. I think he made a very fine statement.

Senator DONNELL. Senator Ives?

Senator IVES. Mr. Chairman and Governor, I would like to get two things oriented here, if I can.

In the first place, I would like to have it definitely understood between us that this bill is not aimed at the South or at any other section of the country.

Governor WRIGHT. Senator, would you let me—

Senator IVES. That is not the thought back of it at all. Nor is it aimed at any section of the country in the matter of race relations, matters of religious relations, or matters of ancestry, or other matters of that character.

Also, it so happens that in some sections of the country the question of the relationship between Negroes and whites isn't half so consequential as the relationship, perhaps, of those of the Jewish faith and those of other faiths.

The bill is aimed at every section of the country and is an over-all proposition. So I trust you won't get the idea that this is primarily or in any sense aimed at the South, because that is the last thing in my own mind and my last thought connected with it.

That is why the bill contains certain provisions and that is why I am interested in getting your reaction to those provisions.

To start with, however, I want to point out, on the observations which you cited from Abraham Lincoln, that they were made at least 80 years ago and that the status of the Negro then was considerably different from the status of the Negro at the present time. I doubt very much whether we could project ourselves into the thinking of Lincoln as of the present moment in view of circumstances as they now exist.

What I want to point out is this: What we are trying to do here is to utilize to the utmost the exercise of what I term the voluntary process. Now, for anybody to go into any part of this country and, by sheer force try to bring about a relationship between any group insofar as the race question is concerned or the religious question is concerned, would be utter folly. We all know that.

I am not a wild fanatic; even though you may get the idea that I am. I have never been accused of being a fanatic. I have deep, fundamental beliefs, but I trust that I have enough common sense to go along with those believers to realize that you can't reorganize this earth in 15 minutes, and that you can't bring about conditions that to many seem desirable, except by the gradual process of evolution—and I assume you also believe in evolution.

Therefore, this bill has in it provisions which, in themselves, are a fundamentally protective force: Mandatory mediation, conciliation, and conference.

There is no requirement in connection with the length of time that need be employed in the exercise of those particular functions. We all know that this question can only be solved in the long run through education if it is to be solved in a satisfactory manner. I recognize that as well as anyone does. And so in this bill also are provisions for a broad, what you might call informal, educational program in this whole field, through local councils, councils of conciliation to bring about understanding in the localities in which such councils may be desired.

The only reason that the compulsion is put in here at all is to cause the people in the several sections of the country to pay attention to this particular thing. If you had a purely educational approach here, we all know that no particular attention would be paid to it in a great many places.

Now when it comes to this question of regimentation—and I notice that you dwelt on that to a considerable extent—there is nothing here in any way, shape, or manner which, if this is properly administered, can create any condition of that kind. In fact, it ought to be directly opposite to regimentation.

I know that I can't compare very well the conditions in the State of New York with some sections in the South; but I think you will find that in some sections of the State of New York conditions are not too different from what they are in some sections of the South. I want to say this in that connection, that a bill almost identical with this has been enacted, as you know, in the State of New York.

Governor WRIGHT. Yes; I knew it.

Senator IVES. It has been in operation for about 2 years and it has been working with considerable success.

I want to point this out, that in the administration of that bill not a single cease-and-desist order has been issued, let alone going to the courts or assessing any penalties or anything like that. The attitude taken by the administrators in the State of New York is that this matter has got to be solved insofar as it is humanly possible to solve it by the voluntary process, by bringing people together and reaching agreement in that way. For anybody to go into any section of this country and, by mandate, to say that "You have got to do this," or "You have got to do that," obviously would cause far more damage than good, and that is not the intent behind this bill.

Governor WRIGHT. Now, Senator, I would like to say this: I sat here for awhile yesterday afternoon, listened in. I certainly know that you have no motive except the best, and I am sure that is true of the other Senators on this committee that are interested in his bill.

Senator IVES. That is right.

Governor WRIGHT. I was convinced of that yesterday when I listened to your chain of questions.

Senator IVES. Were you here when I talked with the gentleman from Walden?

Governor WRIGHT. Yes, sir.

Senator IVES. I am glad you heard that. At least you know that I am on the level.

Governor WRIGHT. I know that and I am just as sincere in my statements.

Senator IVES. I know you are; I know you are on the level.

Governor WRIGHT. I would like to extend to you, as I did to the other Senators before you came in—I wish you would come down to visit in Mississippi and the South.

Senator IVES. I should like to do so.

Governor WRIGHT. And see what the situation is down there and see then how you think that this bill would work in Mississippi; because it just won't work.

Now, as I had called to the attention of the committee before you came in, our population in Mississippi is about 51 percent white and 49 percent colored. Regardless of what the reports may be to the contrary, there is no discrimination in Mississippi.

I don't believe you were here when I told them that the mayor of my town for 28 years has been a Jew.

Senator IVES. Yes; I was here.

Governor WRIGHT. And I live in a county where the Negroes outnumber us 3 to 1; and I know we get along over there. We never have any trouble.

On those big plantations, now, in my county, all of them employ more than 50 employees and they come under the provisions of this bill, and there isn't anybody that can come in there and tell them that they ought to employ a certain number of this race and a certain number of that race, because it just won't work. They have to employ them the way the business requires and justifies, what is best for their business.

Some of those big plantations over there have nothing but Negroes, and others have tenants that are white and colored. Some of them have plantation managers that are colored; however, all under his supervision are colored. We just get along fine over there.

But now you come down there and tell us what we shall do; we have been getting along fine with the races, but you come down and tell us what we are going to have to do and it just won't work.

Senator Ives. I don't exactly see what you mean by "telling you what you would have to do." What do you mean by "anybody coming there telling you what you would have to do?" What change would be required? Bear in mind, this only applies to employment.

Governor Wright. I understand.

Senator Ives. It doesn't apply to anything else. Just what would be the change in status if anybody were to, as you say, try to tell you what to do? I don't know that that would be a good way to do business.

Governor Wright. Over in the Delta section where I live, if you want to look at it from that angle, the truth of the whole business is that any discrimination over there as between the races is against the white race, in the numbers of employees. But the way we are set up there is best for our economic advantage in that particular section.

Now, if there were any need for this type of legislation and if it were left to the State legislature, that is a different matter.

Senator Ives. All right. I realize there is a very honest difference of opinion as to how to approach this problem and, Heaven knows, we are trying to contribute to its solution now, not to its aggravation. There is an honest difference of opinion as to whether this should be handled State by State or whether the Federal Government should enter into the picture. I recognize that honest difference of opinion.

How do you think, in Mississippi, you would operate with a law similar to the New York law? Could you operate with a set-up like that? You could, couldn't you?

Governor Wright. If it were passed by the State legislature, we could.

Senator Ives. That is what I mean.

Governor Wright. Certainly.

Senator Ives. I mean, I imagine that you could operate very satisfactorily there under such a statute.

Governor Wright. We could if it were passed. [Laughter.]

Senator Ives. That being the situation, I can't see that you have so much to fear from this over-all approach that we are making wherein, in all probability, the administration would be very similar to your own administration in Mississippi.

Governor Wright. Well, you are just as honest in your convictions and I am just as honest in my conviction that this law won't work in Mississippi, but, to the contrary, it will retard and it will set Mississippi back in its race relationship.

Now I can say to you, and I say this in all seriousness, that in Mississippi there is a good spirit of racial relationship between the white and the colored, and I was sincere when I said I wish you would come down there and visit us in Mississippi.

Senator Ives. And I certainly would like to do so.

Governor Wright. I will tender you the invitation now.

Senator Ives. You may get a visitor.

Well, what I am really driving at is, how would this retard you? What would be done under this law that would throw you back? That is what I would like to find out.

Governor WRIGHT. All right; here is the thing about it: We may as well be frank about this thing—

Senator IVES. That is what we have to be if we are going to solve it.

Governor WRIGHT. Always you are going to find certain groups of people that don't get along with other groups. Now, there is a certain section of Mississippi in which, for a long time, the population has been predominantly Negro. We have certain sections of Mississippi that don't have the problem at all.

It has taken us a long time to educate all of the various sections to understand our responsibility to the Negro in Mississippi and we have done that now. In this last session of the legislature, we have provided for the building of a Negro vocational school. We have appropriated quite some sums of money for the other educational institutions for Negroes in Mississippi. We appropriated \$3,000,000 to the building commission to be used in building rural schools for them out in the rural sections of the State.

But it took a lot of education, because the legislators from various sections of the State that don't have that problem at all, never had understood it before and we have gotten to the point in Mississippi now where the relationship between the races is better than it has ever been; and this would certainly stir up strife.

Senator IVES. You don't yet have any schools in Mississippi, do you, where both whites and Negroes are in attendance?

Governor WRIGHT. No, sir.

Senator IVES. They are all segregated schools; are they?

Governor WRIGHT. Yes, sir; all segregated.

Senator ELLENDER. Senator Ives has stressed with you the education feature under this mediation and conciliation as provided for in this bill. You, of course, know that the bill provides fines and probably imprisonment should the law not be obeyed; is that true?

Governor WRIGHT. Oh, yes; I know that. I know that the Senator's idea about the working of the bill is fine; if the Senator were going to operate it, it might be all right, I don't know.

Senator IVES. You would be willing to trust me with it?

Governor WRIGHT. Yes, sir.

Senator IVES. By golly, I think you could.

Governor WRIGHT. Sure I could. I think I would.

Senator SMITH. Do you want a leave of absence, Senator?

[Laughter.]

Senator DONNELL. Be a little careful; he might come down and run for Governor or Senator, or both. [Laughter.]

Senator ELLENDER. Governor, you have indicated during the course of your remarks in answer to a few questions by Senator Ives, the progress that has been made in Mississippi in regard to the relationship between the two races. Has not that come about because of the spread of education among them?

Governor WRIGHT. Certainly.

Senator ELLENDER. In other words, the State of Mississippi has in the past 10 years, the same as Louisiana has, spent more money, has been able to spend more money toward the education of the colored people, and the press of the Nation has been writing about it, and the

people of both races—that is, the white and the colored—are learning more and more about each other. Don't you think that if we are let alone that that same course can be advanced to a greater degree and we can obtain the goal sought in this bill on a voluntary method, as has been developing greatly in the past few years in the South?

Governor WRIGHT. That is the only way it will be done, Senator. I am satisfied and certain of that.

Senator IVES. You don't think, then, that the provisions in this bill are satisfactory due to the ultimate legal compulsion, is that it, Governor? You see, you have all of the plan that Senator Ellender talks about provided for in this bill. The point that he is raising is the final legal compulsion, but the point that I raise is that that legal compulsion, except in a dire and blatant case, should not be exercised; that you have got to approach it the other way.

Governor WRIGHT. I don't think so. I don't think you can tell us in Mississippi—

Senator IVES. We are not trying to tell you. This might be left entirely to you to tell yourselves.

Governor WRIGHT. There will be plenty of them that will come down there and tell us on this bill and that is when trouble will come. We are doing the very thing that this bill seeks to do. There is no discrimination in Mississippi. The only discrimination in Mississippi, if you want to term it that, is dictated by the type of business that a man is engaged in and as to whether or not the type of employee would be beneficial from his standpoint of good business.

There is no objection, and there are plenty of instances where the Negro and the white man work side by side.

Senator IVES. That is what I was going to ask you. There isn't an underlying antipathy or prejudice there; is that it?

Governor WRIGHT. No, sir.

Senator IVES. And there are plenty of cases—

Governor WRIGHT. Plenty of cases of their working together, side by side.

Senator IVES. Negroes and whites working together, side by side?

Governor WRIGHT. Yes, sir; side by side.

Senator IVES. That is one big hurdle that has been jumped?

Governor WRIGHT. That is true, yes, sir; but it has come about, Senator, by education.

Senator IVES. A gradual process?

Governor WRIGHT. That is right.

Senator ELLENDER. Governor, you can visualize a situation that may occur, let's say, in Mississippi. Suppose you had, in south Mississippi, in an area of, say, 50 square miles, the populations of Alabama, Mississippi, and Louisiana, which would be about the aggregate of New York City. You might visualize some difficulty such as the Senator from New York is trying to correct in New York but which does not prevail, as you have indicated, in your State?

Governor WRIGHT. Yes, sir; I can visualize—

Senator ELLENDER. And that if you had the population of these three Southern States in an area where you have a lot of congestion and a lot of folks are probably looking for something to eat, and all that, there might be created a condition that would warrant legislation of this kind; but such is not the case.

Governor WRIGHT. I can visualize the condition in the Senator's home town.

Senator Ives. Mine is a little one. I live in a little community.

Governor WRIGHT. Sir?

Senator Ives. I live in a small community of only 9,000.

Governor WRIGHT. Well, I live in one of 1,400.

Senator Ives. You and I are in the same category in that one.

Governor WRIGHT. I went up in an elevator in New York City last year, and I heard about seven different languages spoken on that elevator between the first and the tenth floor.

Senator Ives. That is quite customary.

Governor WRIGHT. Yes. You have conditions up there that we don't have. I don't believe anybody can understand conditions in the South who doesn't live there; and I know they don't get the true picture of conditions down there from reading magazines.

Senator DONNELLY. I want to ask you a few questions, in a moment; but Senator Smith has arrived. I don't know whether you have met Senator Smith, of New Jersey. He would like to ask some questions.

Senator SMITH. I want to ask one over-all question, Governor. I have asked it of others who were here.

This bill starts out with the findings and declaration of policy and then provides for a commission to check up on alleged acts of discrimination, and it defines what "discrimination in employment" is; and finally, it winds up, as Senator Ives has brought out, with certain provisions for enforcement of the law where it is found that an unfair employment practice exists.

Suppose the enforcement features were left out. What would your attitude be toward a bill that would carry out the declaration of policy, would provide for a commission to investigate these matters, and make recommendations; but, recognizing the problems that you present and the difficulty of enforcing these human relationships by law, it would simply be limited to that much of an approach to start with; so we would have an over-all statement of national policy which I think you would probably agree with. You would agree that all of our people should have equality of economic opportunity?

Governor WRIGHT. Oh, yes.

Senator SMITH. We all agree on that. Our problem is how to try to bring that about in a fair way without causing the frictions to which you refer. I think that is what troubles you in this bill; is that correct?

Governor WRIGHT. Senator, here is my view on that: I can't speak for any other State, because I don't know; but I have been in public life in the State of Mississippi for the past 20 years. I do know that the progress we have made in Mississippi has come about because both races, and all classes, have recognized their responsibilities and their obligations to the others.

We are beginning to approach that goal, but I just don't think that the Congress of the United States can tell Mississippi or any other State in the Union what it has to do.

Senator SMITH. Well, Mississippi would cooperate with the Congress in the expression of an over-all national policy in these matters that we are all striving for in order to give all our people the same chance? I am deeply interested in that from an educational standpoint as well as from this standpoint.

Governor WIGGINT. Well, we take this position in Mississippi—have taken it—that we have problems down there peculiar to us, and we think we have worked out a solution. We don't know anything about the problems in the other States; and, be it said to our credit, we don't try to tell the other States how they ought to run their affairs—but a good many of them have tried to tell us how we ought to run ours. Mississippians are pretty resentful of that, too, because we think we are doing a pretty good job down there and those that are trying to tell us what we ought to do just don't know anything about it.

Senator SMITH. I think, as Senator Ives said, that isn't what we are driving at. What interests me is that everyone in this country—whether they are colored or whether they are white, whatever race they may be, Jewish or whatever they may be—should have the same equality of start in the way of education, in the way of economic opportunity.

I think the Federal Government has a responsibility there for the position of the individual, anywhere in this country; and it seems to me that a State like yours would be going a long way ahead if it at least would say: "We are ready to get together with you on a statement of fundamental policy."

Then, if we would say: "You work that policy out and there will be no pressure from the Federal Government, but we must insist that your people have an equal chance," would you resent that?

Governor WIGGINT. We say to them that we don't have any discrimination in Mississippi. We have already given them that.

Senator SMITH. Would you say that is true, Governor, in education? I am just asking a question now, because I am on another committee studying education, and I am advised that it isn't possible to give the colored people the same opportunity in the schools of Mississippi as it is the white schools.

Governor WIGGINT. There is going to be segregation in Mississippi, Senator.

Senator SMITH. I am not talking about segregation. I am just speaking about the same opportunities.

Governor WIGGINT. It doesn't make any difference about any law: there is going to be segregation in Mississippi.

Senator SMITH. We are discussing now one of the most fundamental principles that have been left to us by this war, because all over the world we are facing the problem of whether people can at least attempt to give equal opportunity.

I am profoundly interested in the opportunity of the individual, whether it applies to those of the colored race or whether it is a question of religious belief.

Governor WIGGINT. So am I.

Senator SMITH. I think we should all be standing shoulder to shoulder in that problem. We ought to be discussing what is the practical way to bring it about, if there is any way to solve it.

Governor WIGGINT. I think the practical way to bring it about is for each State to solve it. I think we are already doing it.

Senator SMITH. What is that?

Governor WIGGINT. I think the way to do it is for each State to solve its own problems; and that Mississippi is already doing it.

Senator SMITH. You don't want any Federal aid to education? People from your State say that you do want Federal aid for your

educational program for the school teachers, and so on, in order to bring them up to a level reasonably equal to other States.

Governor WRIGHT. Yes; that is right.

Senator SMITH. You would want that assistance?

Governor WRIGHT. Yes, sir.

Senator SMITH. Would it be proper—and we are happy to work on a bill that will give you that assistance—to say that the only certain minimum standard is that everybody get the same chance, whether it is in a job, whether it is in a school, whether it is education? That is all I am trying to explore.

Governor WRIGHT. Well, we have already said that in Mississippi. That is the goal we are working toward in Mississippi.

Senator SMITH. But you wouldn't favor a bill that declared those policies and tried to work out a way in which that could be brought about, if that bill didn't have the compulsion of law? You wouldn't favor any bill at all?

Governor WRIGHT. I wouldn't favor any bill from the National Congress telling Mississippi what it should do; no, sir.

Senator SMITH. No; I don't want to emphasize that phase of it. I want to emphasize this phase: You wouldn't favor a bill of the National Congress which declares as a principle of national policy that everybody in this country shall have the same opportunity at the beginning; that every child shall have the same chance, and every person, every adult, shall have an equal opportunity to get a job?

Governor WRIGHT. We believe in that. We, of course, wouldn't object to every person having equal opportunity.

Senator SMITH. Well, that is all I want to ask, Mr. Chairman; because it seems to me that there is a real distinction there whether you are willing to join in an over-all national policy to try to bring this about, as a first step, and then consider the ways and means to bring it about.

I can see your objection, and I have been sympathetic with the objection raised here—the difficulty in putting the arm of the law in any situation that creates human relationships. I realize that. I even raised the question whether we could so frame this bill that a State like Mississippi, or any other State, acting within a certain degree of time, by legislative action could say that the provisions of section 8—which is the enforcement provision—would not apply in that State. I have been terribly criticized for saying that, but what I am getting at is: Can't we get our States to agree on the over-all policy and agree on commissions to try to adjust these differences by the services of conciliation, even if we don't go so far as to make it mandatory by law? I will admit that this is the point where we begin to get into trouble, namely, in trying to force on people a situation that they don't want. We had it in prohibition; I realize that.

Senator DONNELL. Have you finished?

Senator SMITH. Unless the Governor has any further comment to make on that.

Senator DONNELL. Have you any further comment, Governor, on the questions or the observations of Senator Smith?

Governor WRIGHT. No, sir.

Senator DONNELL. Senator Ives, do you desire to interrogate the Governor further?

Senator Ives. No. Thanks for the invitation; I will go down and visit the Governor.

Senator DONNELL. I will ask the Governor if he has that copy of the bill which he had in his pocket a little while ago.

Governor WRIGHT. Yes, sir.

Senator DONNELL. Would you be kind enough to turn to page 9 of the bill, particularly to section 7 (a).

Senator Ives, a little while ago, was referring, when speaking of the matter of compulsion, to the proposition that the bill shall make mandatory the methods of conference, conciliation, and I take it he would add persuasion.

Senator Ives. Persuasion.

Senator DONNELL. To make those methods compulsory upon the Commission. Then he made some statement generally to the effect, as I recall it, that there is no special time required in the bill within which those methods must be completed and before applying compulsion.

I take it that his thought was that, for instance, in a State such as Mississippi, every possible means of conference, conciliation, and persuasion should first be exhausted before proceeding to compulsion.

Now, I wanted to ask your judgment as a lawyer—and you testified that you had practiced law for a good many years—on the fair meaning and construction to be placed on this section.

It says:

Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the Act has engaged in any unlawful employment practice, the Commission shall investigate such charge, and if it shall determine after such preliminary investigation, that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion.

Then it proceeds, down at line 23:

If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this Act—

it shall cause a copy of the written charge to be served, et cetera, et cetera; and then, proceeding over to the next page, page 11, that—

If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice—

et cetera.

Now, the point I want to ask your judgment on, Governor, is this: On page 9, in section 7 (a), lines 18 and following, the bill imposes the obligation on the Commission to endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion.

Do you think that the fair construction of that is that the Commission can just take any time that it wants to do that; or is it contemplated by the act, even though mandamus would not lie against the Commission, probably, to require it to act within a particular time—is it or is it not contemplated by the act that the Commission shall use

these endeavors by informal methods of conference, conciliation, and persuasion only for a reasonable time, and that after the expiration of the reasonable time, it shall proceed on the compulsory methods prescribed? Is that your construction of the act?

Governor WRIGHT. I am sure, Senator, that that is what the authors of the act had in mind; and probably if Senator Ives were going to administer it, I might say that would be what would happen. But I doubt that it would, as a practical proposition, if this law were passed.

Senator DONNELL. The thought I had in mind is this: It seems to me—and I don't know that I am entirely in harmony with Senator Ives on his construction—it seems to me that even though there is no requirement that the methods of conference, conciliation, and persuasion shall be continued for only 90 days or 6 months or any particular time, and even though it be true that the Commission could not be required by mandamus to start on the compulsory means within a particular time, nevertheless, it seems to me obvious that the Commission could not just project this thing along for years and years and years before it ever started in on any of its compulsory provisions; and that the fair meaning of this act is that if it goes down to Mississippi, for instance, and a sworn, written charge is filed there against John Smith, employer, to the effect that William Jones, a colored man, has been discriminated against, it seems to me that the fair meaning of this act is that the Commission shall first endeavor, for a reasonable time, by informal methods of conference, conciliation, and persuasion, to effect the removal of discrimination.

But, failing in that, that the Commission can't just say, "Well, we will wait 6 months or a year or 3 years, or 5 years, or 9 years, or 10 years, until Mississippi is in accord with this bill, before we start any compulsion."

It seems to me that the obligation under this act—I don't mean necessarily a legal obligation that could be enforced against the Commission by a legal process—but the fair meaning of the act—which is the more accurate statement, I would say—is that the Commission shall, if it fails to effect the results by conference, conciliation, and persuasion within a reasonable time, proceed to the enforcement of the act.

Now, isn't that judgment of the meaning of that act—

Governor WRIGHT. No doubt but what that is the meaning of the act.

Senator DONNELL. If such is the meaning of the act, it seems to me, then, that there is this matter of compulsion in the act. Whether that would cause a person to be against the act I am not passing on at the moment.

But, to my mind, it can't be said properly under the act that the Commission could, in Mississippi, let the enforcement by compulsory proceedings rest for 25 years and go ahead and enforce it in some other State, or in 10 years or 5 years enforce it; but that in a particular case if John Smith, the employer, is complained against by William Jones, a colored man, that the Commission, if it doesn't within a reasonable time—whatever that may be; it may be 3 months or 6 months; certainly not a period of years—that if the Commission cannot within a reasonable time effect a decision which it thinks prevents discrimination, it shall proceed with compulsion. Don't you interpret the bill in that way—or do you?

Governor WRIGHT. Yes, sir; no doubt about that.

Senator DONNELL. You feel that the compulsion that is in the bill makes the bill objectionable to the people of your State?

Governor WRIGHT. Yes, sir; entirely objectionable.

Senator DONNELL. I didn't get your answer.

Governor WRIGHT. I say, yes, sir.

Senator DONNELL. Senator Ives.

Senator IVES. I would like to make two observations in that connection: First, as to the definition of what might be construed to be reasonable time in a situation of this type. I have had a little experience with matters of mediation; and a reasonable time is a variable. In one situation, it might be a few months; in another one, it might run much longer. The whole thing is contingent, as I see it, upon the constant effort which would be applied by the Commission to adjust a matter of this nature.

If the Commission should drop it and just disregard it, that is obviously a violation of the law on the part of the Commission. But the Commission should constantly be endeavoring, in a situation, to try to straighten it out, try to bring it into adjustment, and as long as it is trying that, certainly I cannot see where, in any way, shape or manner, the spirit or the intent of the law is being violated.

Senator DONNELL. May I present this hypothetical situation to the Senator: Take the Jones Manufacturing Co. in Biloxi, Miss. There is a charge filed against it by William Smith, who is a colored man. He says he has been discriminated against. The Commission sends in its examiners or its agents, whoever they may be, to investigate that matter, and they endeavor by conference, persuasion, and conciliation to induce the employer, the Jones Manufacturing Co., to engage William Smith because the Commission's representatives think that William Smith is entitled to employment.

Now, suppose the representatives of the Commission—of this Board or Commission—get all the evidence there is, sit down and talk for 3 weeks—or 3 months, even—with the Jones Manufacturing Co., and the Commission's representatives are thoroughly convinced that William Smith is entitled to employment but the Jones Manufacturing Co., after a period of 3 months of conference, conciliation, and persuasion, says "We positively will not employ William Smith, no matter if you stay here for 40 years."

Now, does the Senator think that the Commission would be entitled under the fair meaning of this act, just to say, "We will wait now 5 more years, until the Jones Manufacturing Co. may have a different view of it and we won't take any compulsory steps."

Doesn't the Senator feel that after, we will say, in the case that I have cited, 3 months or 6 months—I will not be squeamish about the exact number of months—but after participation in conciliation and conference has continued for six solid months, every day, between the representative of the Commission and the Jones Manufacturing Co., doesn't the Senator feel that the fair intention of this bill is that when the Commission's representative found out that the Jones Manufacturing Co. is irrevocable in its decision, then if the Commission's representative thinks that the law is being violated, the Commission should take action then to enforce the provisions of the act? Doesn't the Senator agree with me on that?

Senator Ives. Mr. Chairman—Governor, they get me in the “damndest” spots [laughter]—in the first place I want to point out one thing, and that is that you have to have the assumption in the case you cited that the only and the sole reason involved in that particular situation is the fact that the applicant is a Negro. That is a premise that you have to have, or a hypothesis that you have to accept there.

In the next place, you started in with 3 months, and then we jumped to 6. That is perfectly all right. It might take a year of that continual operation and effort, I don't know; but the point that I am driving at is this: Suppose you do try this for 3 months or even 6 months, meeting periodically. By the end of that time you are going to know whether you are making any progress, or not. You are going to know the attitude of the employer definitely. Presumably, if you tried to conciliate for that period of time and if the reason is obviously because the applicant is colored—or it might be on account of his faith; it might be on account of anything; presumably you aren't going to get anywhere if that is the reason that they are stating. But you ought to bear in mind that, 9 times out of 10—99 times out of 100, even a greater proportion—that won't be the reason that is being given. That is the thing you have to run down. The question that arises primarily in a case like that is the capacity of the individual to fill the job involved as compared with somebody else who may be also an applicant and who may be taken in preference; and those are the things you have to size up.

But if you get a blatant case like that and if they absolutely refuse to yield, I would give them a little cooling-off period somewhere in there.

Senator DONNELL. Six months of cooling off?

Senator Ives. That isn't a cooling-off period; that is a continual pressure on the part of those trying to correct the condition by conciliation, and so forth. Give them maybe 3 months and go back after them again; see if it can be straightened out. If it becomes obvious that definitely, for that one and only reason—and, bear in mind, that can be the only reason, nothing else—if they are just trying to thwart the law, obviously the penalties would have to be invoked, and that is what they are for. But that kind of a case, as I say, has never happened yet in the State of New York, and the chances are if this matter is properly administered in the State of Mississippi, it wouldn't happen—amazing as that may seem to you.

You said you would trust the administration to me.

Governor WRIGHT. I said if it became a law, I would like to see you administer it. [Laughter.]

Senator Ives. All right; but that is assumed.

Senator DONNELL. Well, Governor, I take it you would concur with the view that, in the illustration that I have given here of the Jones Manufacturing Co., this Commission if it follows out the fair intent of this law, couldn't just sit there indefinitely doing nothing toward enforcement. You would agree to that, wouldn't you?

Governor WRIGHT. Yes, sir; I certainly agree to that.

Senator Ives. We all agree to that, in the final analysis; nobody will argue that point.

Senator DONNELL. I think that point has been argued. I think the point has been argued on this bill that the Commission is entitled

by the conciliation and conference and persuasion methods to just wait; and the thought that has been expressed here in the committee from time to time has been that, through that very elastic provision of this act, perhaps the matter could all be ironed out with practically no cases of cease-and-desist orders.

And over in New York they haven't had any cease-and-desist orders, which immediately raises the question, I think, as to whether or not, even in New York, there has been an effort to enforce this New York act along the line that the real intent of the bill proposes. I don't know. We have the testimony here of some witnesses but it is a curious thing to me that in the State of New York, since that bill has been in existence, there hasn't been one single, solitary cease-and-desist order issued.

Now, that is curious and I think it is an important question to consider.

Senator IVES. Mr. Chairman, may I reply, in view of the fact that the good name of New York State is in question?

Senator DONNELL. Certainly.

Senator IVES. I don't think that that means anything other than that the voluntary processes which are fundamental in this piece of legislation are being exercised in the State of New York. Presumably, sometime or other, in the State of New York a situation such as Senator Donnell has pointed out may arise. It might be a good thing if it did arise, and I am quite sure that if a situation did come up there of a glaring, defined nature, the commission in the State of New York would take such action as is required under this act. But the fact remains that by the process that they are employing in the State of New York, discrimination in that State has been reduced tremendously. I don't remember the percentages that I saw here 6 months ago on discrimination, but it shows a terrific reduction in the State of New York.

The fact also remains that in the State of New York, insofar as the administration of the act is concerned, there is very, very little criticism. Oh, you get criticism from fanatics. You will get criticism from people that want everything done overnight, want the world remade for one reason or another; and I think such criticism is always suspect.

But, by and large, by the people affected by this act in the State of New York there is almost no criticism at all. I think that pretty nearly answers the question that Senator Donnell has raised.

Senator DONNELL. Now, Governor, have you anything further to submit to the committee?

Governor WRIGHT. No; I believe not, Senator.

Senator DONNELL. We are very grateful to you for taking the time out from your campaign to come and give us the benefit of your views. We thank you.

Governor WRIGHT. Thank you, sir.

Senator IVES. Don't you think, though, that we are a great bunch to argue with each other?

Governor WRIGHT. I think it is a splendid bunch.

Senator IVES. You ought to hear Senator Ellender and myself when we get going.

Senator DONNELL. Senator Smith doesn't sit in the rear, either.

Senator IVES. Not by a long shot.

(Governor Wright submitted the following brief:)

STATEMENT OF GOVERNOR WRIGHT ON SENATE BILL 984, NATIONAL ACT AGAINST DISCRIMINATION IN EMPLOYMENT

I accepted the invitation to come to Washington to offer testimony in opposition to Senate bill 984—National Act Against Discrimination in Employment—not simply because it is my belief that it is a bill inimical to the best interests of Mississippi and the South, but because it is also my firm conviction that this proposed piece of legislation is dangerous to the United States and all of the people of our Nation.

In appearing in opposition to this proposed measure, it is my belief that we represent not only the people of Mississippi, but that we represent the best interests of all of the people of the United States.

One of the fundamental concepts on which this great Government of ours was founded is the belief in individual freedom and individual initiative. This was the motivating spirit which impelled our forefathers to break away from the old countries and to see a new life in a new world. This belief further inspired them to wrest control of their new land from the mother country and form a new nation—a nation which had as its fundamental law the fairest and most just document of government ever conceived by man—the Constitution of the United States.

With this Constitution as the fundamental law of the land certain broad rights were guaranteed to the individual citizens of the country. The Constitution, with its amendments, guarantees to every individual the right to do things for himself. And under its mantle the individual is limited in his achievements solely by his abilities to create and produce.

Under the protection of this great document and inspired with the breath of freedom and free enterprise which is the very essence of our country's greatness, the United States of America has grown into the strongest nation in the world. Americans pushed their original limited frontiers 3,000 miles across the North American wilderness. American ingenuity developed and produced an amazing assortment of machines and devices for the improvement of our way of life and for the comfort and convenience of our citizens. American courage and productive genius enabled us to withstand every foreign war and to survive a period of bloody civil strife. And in the last great conflict American production supplied the world and produced in unbelievable time an unprecedented amount of material of every kind.

The United States of America grew great on the system of free enterprise—on a system which was unhindered and unfettered by anything like the dangerous legislation which we now consider.

And it has always been one of the outstanding talking points for our way of life that here in the United States a man is limited only by his own abilities. A man may rise from the most humble home in the land to the highest office in the Nation. A man may come from the poorest of homes, yet build a financial empire.

No; it didn't take an act such as proposed in Senate bill 984 to bring Andrew Jackson from the hills of Tennessee to the Presidency. It didn't take an act like this to raise Abraham Lincoln from the humble log cabin in Kentucky to the highest office within the gift of his people. It didn't take such an act to assist Henry Ford and John D. Rockefeller in building their vast industries from humble beginnings. No, gentlemen, and it did not take an antidiscrimination act to lift Booker T. Washington and George Washington Carver into positions of great attainment and leadership and to a high level of respect among both white and black alike.

They all achieved because this was the United States and because our system by its very fundamental nature allows men of ability to create and build.

It does not take the passage of legislation of this kind to guarantee any rights to our citizens. But rather, it seems to me, that the passage of this legislation would deprive our people of more than it could ever give them.

Every American is a potential employer, a potential owner of a business.

Each of our people has the opportunity to develop something for himself. And in the development of any business, any man who invests capital, any man who operates a business, must have the freedom to choose the type of employees he desires to the end that his employees will be congenial and to the end that the clientele which deals with his business will be satisfied. That is the only sound manner in which a business can operate.

Senate bill No. 984—The National Act Against Discrimination in Employment—applies to employer and labor union alike in denying these fundamentals just set forth.

It states in part: "Sec. 6 (a) (1) It shall be an unlawful employment practice for an employer to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry * * *"

It states further in the same section, paragraph (b): "It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin, or ancestry."

In section 7 (a) it is stated: "Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the Act has engaged in any unlawful employment practice, the Commission shall investigate such charge, and if it shall determine after such preliminary investigation that that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion * * *"

The enforcement procedures are further outlined from that point.

Here, then, is an act by which the Congress of the United States will set up the most complete program ever devised for regulating, controlling and harassing American businessmen and labor unions. It takes no prophet to foresee that under these provisions there will arise such an amazing and conglomerate mass of claims, charges, and investigations that the employer of more than 50 persons and the labor union of more than 50 members will be continually harassed and troubled—even in instances where he is not actually at fault.

For, under this act, it will be a very simple matter for any person who is refused a job or discharged from a job, or who has any grievances whatever against his employer or against his union, to say that he was discriminated against under the provisions of the act.

And, from a practical standpoint, we all know that no employer is going to deny employment to any person regardless of race, creed, or color—when the addition of that person to the pay roll of the business will be an asset to the business, in keeping with good business practices, and in accordance with good practices for the promotion of harmonious relations between his other employees. That is a simple law of good business judgment and good business practices. In order for a business to prosper an employer must be allowed discretion along these lines; and in order for a union to properly perform its functions for the greatest good of its membership it must have similar discretion.

The United States Government has no right under any conceivable interpretation of the Constitution to say to an employer that he must employ or to a union that it must accept any individual—regardless of race, creed, or color—when the employment of such person would be detrimental to the employer's business or his acceptance would be conducive to promoting unrest within the union.

This act will place the Government of the United States in private business and union activities on an unprecedented scale. It will create a vast bureau of undreamed-of proportions. It is a monstrous threat to free enterprise, unworkable and unwieldy.

If this act is passed by the Congress we will see a first-hand exhibition of the old nursery rhyme:

"There was an old woman
Who lived in a shoe;
She had so many children
She didn't know what to do."

For truly the Commission proposed would have more troubles and complaints than it could possibly deal with—and I am satisfied that most of them would probably be unjustified, yet complaints which would have to be considered, nevertheless.

I think we may as well realize that the Government by law can never adjust, never regulate, and never control every phase of an individual citizen's exist-

ence. The Government by law cannot guarantee every person a job, nor can it guarantee that he will keep that job. That must be determined by an individual's ability and productive capacity.

This country was developed by the initiative and courage of its people. Have we so lost that courage that we must be regimented, directed, and driven in every phase of living by the Government through such legislation as this?

I don't believe such regimentation necessary. I know that the American people do not want this legislation. And I know that it can never be enforced, because no law can be enforced which the people detest—we've seen too many examples of that already.

I think that one of the fundamental fallacies in American thinking today is found in the all too prevalent idea that the enactment of a law can cure everything. Laws can be no more effective than the citizens want them to be. We can enact legislation of every kind and character for every conceivable purpose in the Congress of the United States and in every State legislature throughout the Nation; but unless the people of the United States and the individual States want the laws enacted to be effective, those laws can never work.

It is my considered opinion that laws such as the proposal to create this Commission enter a field of human relationships which was never contemplated by our Constitution as a field for legislation and which are absolutely unworkable. Men throughout all ages have found it convenient and advisable to band themselves together for the promotion of common interests and in the development of common endeavors. In the many and varied organizations which have been formed the members thereof have reserved the right to choose the types and kinds of persons with whom they associated. This has been essential to the success of the organizations. This is particularly true of any business organization and any labor union.

If the Congress of the United States says to the people of the United States that they must be hamstrung with an act such as Senate bill 984, then the Congress of the United States may just as well tell every church, every school, every club, every fraternal order, and every other type of organization who can and who cannot participate in its membership and this will be the first step in that direction, if this bill is enacted into law. It is my belief that this type of legislation is the most dangerous legislation ever presented to an American legislative body—either the Congress of the United States or any State legislature. Once this type of legislation is adopted, there is no end at which it may be brought to a stop.

Another point which we may consider with regard to this legislation is that it is minority legislation. It is sponsored primarily for the aid of certain minority groups. Our theory of government is based on the rule of the majority. And while our Government seeks to protect the rights of all the people, it is inconceivable that legislation should be enacted which is wholly and totally in conflict with the will of the majority and the interests of the majority and which is solely in the interests of a minority. This bill is definitely minority legislation, and minority legislation is a definite and distinct danger to the common weal.

Whenever the Government of the United States says by law to any employer or to any union that either is not free to use discretion in choosing employees or members, then democracy in the United States is on the down grade and on the road to decay and ruin. I strongly believe that the passage of this legislation will react directly to the advantage of those radical forces with which our theory of government and way of life are in direct conflict today. It is also my considered opinion that the enactment of this legislation will lead to strife, turmoil, confusion, and even bloodshed simply because the Congress cannot create by law practices which are contrary to the laws of nature and to the laws of God.

If the forces behind this bill succeed in obtaining its passage it will be but the beginning of a long series of bills aimed at breaking down our way of life. In their subtle schemings they will seek to force through legislation aimed at preventing individuals from banding together in fraternal orders, civic orders, churches, and every other type of organization except in accordance with the principles which they advocate and along the lines which they set forth. Yes; this bill will be but the first step—and a big step—toward strict regimentation and governmental direction along a path which the Constitution of the United States never contemplated and in a field wherein laws cannot be made enforceable.

We of the South feel that this legislation is aimed primarily at our section, because the Southern States comprise the geographical area wherein there resides the largest minority group in this country. We are becoming sick and tired of

being the political dumping ground for all types and kinds of legislation aimed primarily at our section of the country.

This is one Nation—a union of sovereign States, so conceived by the founding fathers and so created by the instrument which gave us national life—the Constitution of the United States. Each of the 48 States has made great contribution to the development and to the welfare of the Nation. Each has given a full share of its brave sons in bitter warfare for the preservation of our ideals and our liberties. The sons of the South, of the North, of the East, and of the West have all written glorious deeds of heroism into our history in each of the wars which we have successfully maintained.

Why, then, is it that here in the United States Congress we see repeated efforts made to enact legislation aimed primarily at the South and southern institutions?

As far as I know, there is no need for a Commission of the type proposed by Senate bill 184 in any section of this Nation. Wherever he has the ability and the will to work, any man—regardless of race, creed, or color—can achieve, and this is true in the South and every other section of the country. And wherever a person does not have the ability, does not have the will to work, and does not fit into a business organization or a labor union, then the Congress of the United States can't make such person fit by legislation such as this, and you can't escape it.

In the South there are countless instances and examples of industries in which the great majority of employees are Negroes. These Negro employees are fairly treated, and there is no discrimination against them. There are countless businesses which Negroes have themselves developed and in which they are prospering.

There are unlimited opportunities in the South and every other section today for any person of courage, determination, and ability to succeed and to achieve. Throughout the South and throughout the Nation we have countless examples of achievement by members of every race. We have many, many examples of achievements by Negroes in every field of endeavor in Mississippi and throughout the South.

Creation of this Commission will not contribute one iota to opportunities for achievement. There is no such thing as equalization in a democratic society. Democracy is based on competition in a system of free enterprise. And whenever you try to equalize things by legislation, then you will fail in your efforts to pull the weak up and will only succeed in pulling those who have achieved down. Whenever we in this country start trying to control every phase of human endeavor and human relationships by legislation—and this bill is a gigantic jump in that direction—then we will have insured the doom of our democracy, for we will have played directly into the hands of those who believe in the theory of strict regimentation and the totalitarian way of life. Any such doctrine as that espoused by this legislation is bound to be repugnant to anyone who believes in the principles of freedom and liberty as set forth in the Constitution.

If Americans are to have jobs, business must prosper. If business is to prosper, employers must generally have discretion as to the character of their employees. There are many types of businesses in this Nation where Negro employees wouldn't fit into the picture. There are many types of businesses in this Nation where various other racial groups wouldn't fit into the picture. There are many type of businesses in this Nation where white employees wouldn't fit into the picture. That's just a fact, and everyone with any fairness and sense of justice knows it.

There can only be one right way to resolve this question. Leave employers free as they now are to employ only whites, if they so desire. Leave them free to employ only Negroes if they so desire. Leave them free to employ only Baptists, or Methodists, or Catholics, or Jews, or any other faith or race if they so desire. If you don't, I foresee a most unhealthy and unwieldy stifling of American business and American enterprise, with the ultimate result being business failures, less jobs, unemployment, hunger, and ultimately strict regimentation.

I don't like this proposal to create this Commission, because I know it is contrary to the best interests of all Americans and because it in itself is un-American.

Since this is one Nation, and since we believe that this legislation is aimed primarily against the South, we say to you—let the South solve its own problems. We are more familiar with those problems than anyone else. We live with our problems, just as the people of Maine, New York, Illinois, Colorado, and California live with their problems. It is our belief that the people of the other

States are more familiar with their problems than anyone else and that they should be allowed to solve them, because they have the opportunity to better understand them. We expect and demand that same privilege and right—for that is the American way.

Since the Negro race is the largest minority group by far within the United States, and since this legislation is proposed primarily for the benefit of the Negro, in bringing this brief to an end I would like to bring to the committee some quotations from a great American on the race question.

This man is hailed as "The Great Emancipator"; he is described by many as the greatest of the Presidents; and advocates of various types of legislation, such as this, often point to him as their source of inspiration. But I believe that if he were living today, this man—Abraham Lincoln—would be opposed to this type legislation.

Listen to him, speaking on the Negro question: " * * * Anything that argues me into his idea of perfect social and political equality with the Negro is but a specious and fantastic arrangement of words. * * * I have no purpose to introduce political and social equality between the white and the black races. There is a physical difference between the two, which, in my judgment, will probably forever forbid their living together upon the footing of perfect equality; and inasmuch as it becomes a necessity that there must be a difference, I, as well as Judge Douglas, am in favor of the race to which I belong having the superior position."

To my way of thinking, this clearly indicates the thinking of a man who has been held up repeatedly as the chief support for so many propositions such as this. It clearly gives his views on the subject of equality. He believed in the superiority of that of which he was a part—the white race—just as any man having any pride and self-respect believes in the organization, community, or race of which he is a part.

Again Mr. Lincoln said on another occasion: "While I was at the hotel today an elderly gentleman called upon me to know whether I was really in favor of producing a perfectly equality between the Negroes and white people. While I had not proposed to myself on this occasion to say much on that subject, yet as the question was asked me I thought I would occupy perhaps 5 minutes in saying something in regard to it. I will say that I am not, nor ever have been, in favor of bringing about in any way the social and political equality of the white and black races—that I am not, nor ever have been, in favor of making voters or jurors of Negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say, in addition to this, that there is physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I as much as any other man am in favor of having the superior position assigned to the white race. I say upon this occasion that I do not perceive that because the white man is to have the superior position the Negro should be denied everything. I do not understand that because I do not want a Negro woman for a slave I must necessarily want her for a wife. My understanding is that I can just let her alone. I will add to this that I have never seen, to my knowledge, a man, woman, or child who was in favor of producing a perfect equality, social and political, between Negroes and white men. * * * I will add one further word, which is this: That I do not understand that there is any place where an alteration of the social and political relations of the Negro and the white man can be made except in the State legislature—not in the Congress of the United States. * * *

And again he said: "Judge Douglas has said to you that he has not been able to get from me an answer to the question whether I am in favor of Negro citizenship. So far as I know, the judge never asked me the question before. He shall have no occasion to ever ask it again, for I tell him very frankly that I am not in favor of Negro citizenship. * * * Now, my opinion is that the different States have the power to make a Negro a citizen under the Constitution of the United States, if they choose. * * *

Twice, in that speech, Mr. Lincoln, who is so often held up as the great exponent of the doctrine of equality, specifically stated that he believed racial matters were matters for the concern of State legislatures. I believe that would be his position today. And this Congress has before it a repeated pattern of rejections of legislation similar to this by the various State legislatures throughout the country—excepting a very few—because the legislators in those States know such legislation is unwise, unworkable, and unconstitutional.

Mr. Lincoln further said: "There is a natural disgust in the minds of nearly all white people at the idea of an indiscriminate amalgamation of the white and black races. * * * I have said that the separation of the races is the only perfect preventive of amalgamation. I have no right to say all the members of the Republican Party are in favor of this, nor to say that as a party they are in favor of it. There is nothing in their platform directly on the subject. But I can say a very large proportion of its members are for it, and that the chief plank in their platform—opposition to the spread of slavery—is most favorable to that separation.

"Such separation, if ever effected at all, must be effected by colonization, and no political party, as such, is now doing anything directly for colonization. Party operations at present only favor or retard colonization incidentally. The enterprise is a difficult one; but 'where there is a will there is a way,' and what colonization needs most is a hearty will. Will springs from the two elements of moral sense and self-interest. Let us be brought to believe it is morally right, and at the same time favorable to, or at least not against, our interest to transfer the African to his native clime, and we shall find a way to do it, however great the task may be. The children of Israel, to such numbers as to include 400,000 fighting men, went out of Egyptian bondage in a body. * * *

Thus spoke Abraham Lincoln on race relations.

Senate bill 984 proposes to the Congress a dangerous piece of legislation. It proposes to embark this Nation on a course which can only lead to regimentation and to decay. It will be but the first step in a long series of similar measures which will eventually sweep away all barriers and lead ultimately to the destruction of all races in this country and to the mongrelization of our people. Recorded history has proved over and over again that mongrelization leads to downfall.

This bill, with all its hidden implications, with its dire threats to our way of life, with its direct step toward strict regimentation, should not be forced upon our system of free enterprise and private initiative. For, by its passage, a step will be taken toward our own self-destruction.

STATEMENT OF HON. JOHN E. RANKIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Senator DONNELL. Now, gentlemen, I have observed that Congressman Rankin is here this morning. As I understand it, he is desirous of saying a word at this point; is that correct?

Mr. RANKIN. Senator, I was invited here by Senator Ellender to discuss this proposition.

Senator DONNELL. Won't you have a seat, Congressman?

Mr. RANKIN. I believe I had rather stand if it is satisfactory; and I desire to discuss this measure from a national standpoint, and not from a local standpoint.

I am going to ask, if I may, that I insert in the record at this point a statement I made in the House, in which I also included a statement I made on the FEPC that was set up by Executive authority here in the House in Washington, because I am going to follow along that line.

Senator DONNELL. It will be introduced into the record and made a part thereof.

(The statement of the Honorable John E. Rankin referred to is as follows:)

[From the Congressional Record, 80th Cong., 1st sess.]

THE FEPC IN NEW YORK—WHITE AMERICANS BETRAYED

(Speech of Hon. John E. Rankin, of Mississippi, in the House of Representatives, Thursday, February 13, 1947)

Mr. RANKIN. Mr. Speaker, I was amused at the address of the gentleman from Michigan [Mr. Hoffman] and very much interested in what he said. He talked about the slowness with which the leaders of his party proceed in passing labor legislation. I also noticed in the paper that the Senate leaders were going to wait on the House, and the House leaders were going to wait on the Senate.

It reminded me of what I heard over the radio the other night. Somebody was reading the laws of a certain State on traffic regulations which provided that when two cars approach a crossing at right angles they both must come to a dead stop, and each one of them must remain in that position until the other one has passed on. I am just wondering if that is the kind of stalemate we are running into, and if we are going to come to that kind of a dead standstill, with each House remaining in that position until the other one has acted.

But, Mr. Speaker, I arose to discuss a measure introduced by the gentleman from Illinois [Mr. Dirksen] for the re-creation of the now defunct FEPC, or the so-called Fair Employment Practice Committee.

I believe Mr. Dirksen made a speech for such a measure in the last Congress, which reminded me of the colored preacher who told his congregation that he was "going to preach to you an ole' postolate injunction, 'Take no heed of what you shall say.'"

It would certainly take a genius to reconcile that speech of the gentleman from Illinois [Mr. Dirksen] and this FEPC bill he has introduced with his recent speech against communism, especially since that FEPC is the chief plank in the Communist platform.

It is the most dangerous piece of communistic legislation with which this country has ever been threatened in all its history. I am going to show what it would do to the people of Illinois by pointing out what it is doing to the people of New York, where this vicious measure was written into the laws of that State without consulting the people who are suffering under it.

All these bills contain the same old bunk about making it a crime to discriminate in employment because of "race, creed, color, national origin, or ancestry," and so forth.

Before Mr. Dirksen attempts to ram this monstrosity down the throats of the people of Illinois, and all the other States, I suggest he do as they did in California, let the people of Illinois vote on it. That is what they did in California in the last election, and it was defeated by a majority in every single individual county in California.

Now let us see what such a measure is doing to the people of the State of New York.

A man from New York said to me this morning, "You know this measure is being operated in New York simply by failure to operate it." The other night there were two men from New York in a taxicab here in Washington driven by a man who works here on the Hill. They got into an argument. One of them said, "I told you this FEPC would ruin the State of New York if they ever put it on the statute books." The other one said, "I did not think so. I thought it was a humanitarian measure. But I now see my mistake."

Then the other man said, "Here is what it has done to me. I own a good home," I believe he said "out on Riverside Drive, and I also own a house next to it which I bought for my own protection. I had a friend living in the other house, but his business took him to another section of the country and he had to vacate. Like a fool, I put up a sign 'For rent,' thinking that someone in the community whom I could afford to rent it to would apply. Somebody put a colored fellow up to come and apply for it and the court now says I must let him have it."

I bring this to you for what it is worth. I understand the Communists in New York are demanding that the same rule be applied to rooms or apartments for rent.

But I want to read you some of the regulations that now being imposed upon the people of the State of New York under this vicious law. Businessmen from New York tell me that the way they are getting around this measure is by operating through employment agencies, because no intelligent businessman would go to a State with that kind of law on its statute books and attempt to establish a new business or a new enterprise, especially with the regulations or rulings under it which I am now going to read to you.

Remember they put this measure on the ticket in California and the people voted on it in the last election; and it lost in every single individual county in California. It was beaten in the entire State by about 3 to 1.

You simply destroy business with a measure like this. That is what the FEPC did here. Men have gone out of business all over the country in the last few years because of the persecution that was carried on by this outfit here in Washington, the personnel of which I shall insert later on.

A few people are going around urging us to pass it as a national law, to put everybody else in the same predicament. These people who are carrying on this racial agitation are using the Negro as a smoke screen. They do not give ainker's dam about the Negro. They are not trying to help the Negro. They are doing them more harm than anybody has in the last 50 years, and the decent law-abiding Negroes know it.

But let me show you what they have done in New York, and let me give you some of the regulations or rulings, as they are called, and ask you if you would like to have them in your State. I want to ask the gentleman from Illinois (Mr. Dirksen) how he would like to have them in Illinois, or how you would like to have them in Ohio, Indiana, Pennsylvania, or in Missouri, or in any other State in the Union.

Here are the regulations, or rulings, issued by the State of New York. They are headed:

"State of New York Executive Department. State Commission against discrimination. Rulings."

Here are rulings:

I want to show you some things you cannot ask in the State of New York when you go to employ a man.

Remember that State has no gas, coal, or oil, and very little water power. The rest of the country does not have to go to New York, or to any other State to get what it needs in the years to come. The American people in every section of this country are in a position now to take care of themselves. You put this measure on in one State after another and you will simply penalize those States beyond reason, and when they ask you to pass it for the whole United States and put it on the entire American people, after the fiasco they have made of it here in Washington in the last few years, it is simply unthinkable to a man who knows what he is doing and has the interest of the people of the country at heart.

Here are some of the things you cannot do under the law of New York:

UNLAWFUL EMPLOYMENT PRACTICES BEFORE HIRING ANYBODY

Those words are written in capitals. Here is the first unlawful practice:

"Inquiry into the original name of the applicant for employment, whose name has been changed by court proceedings or otherwise."

If you inquire as to his name or what his name used to be you violate the law. You commit an unlawful practice. For instance, take this man who writes for PM, who calls himself I. F. Stone. His name was Isadore Feinstein, as Cordell Hull once pointed out. Suppose he comes to you asking for employment and you ask him that question. Then you will have committed an unlawful act.

Here is the next one:

It would be unlawful practice to make "Inquiry into the birthplace of the applicant for employment, the birthplace of his parents, spouse, or other close relative."

How would you like that in Iowa, Illinois, Texas, or Nebraska? In California I know you do not like it, because you have just voted on it.

Here is the next unlawful practice:

"Requirement that the applicant for employment produce a birth certificate or baptismal certificate."

That would be an unlawful practice under this FEPC Act in New York.

I was surprised to see Governor Dewey get his mustache in the wringer on this proposition. I do not see how he is ever going to get loose from it.

Mr. MASON. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. I yield.

Mr. MASON. What about this requirement during the war that every person employed in certain industries had to prove that he was born here before he could get a job?

Mr. RANKIN. Certainly. If we had had this law all over the country then, the Japs would have had a spy at the elbow of every man in a key position; so would the Germans, and so would every other enemy country.

I thank the gentleman from Illinois for his timely suggestion.

It is an unlawful practice in New York, under this law, to make "Inquiry into the religious denomination of an applicant for employment, his religious affiliations, his church, parish pastor, or religious holidays observed. Inquiry into whether an applicant for employment is an atheist."

Inquiry into whether an applicant for employment is an atheist is forbidden, although you may be publishing literature for the Methodist Church, the Baptist Church, or any other denomination.

Another thing, an applicant for employment—and I am reading from the rules laid down by this Commission:

"An applicant for employment may not be told that this is a Catholic, Protestant, or Jewish organization."

In other words, if you are in the business of publishing religious literature you cannot even give him that information under this law which the gentleman from Illinois [Mr. Dirksen] now proposes for the whole country, including Illinois.

Here is another unlawful practice:

"An applicant for employment may not be told that the following holidays will be observed by the firm and its others, naming the holidays; e. g., Decoration Day and July the Fourth, etc."

You cannot tell them under the laws, rulings, and regulations of the State of New York that they may observe the Fourth of July.

Here is another unlawful practice:

"An applicant for employment may not be told that employees are required to work Rosh Hashana and Yom Kippur."

Frankly, I did not know there were any such days until the last few years.

Another thing, it is an unlawful practice under this New York law to make "Inquiry into the complexion of an applicant for employment."

Inquire into his complexion and you are likely to get yourself tangled up with the law of the State of New York.

Here is another unlawful practice:

"Requirement that an applicant for employment annex a photograph."

That would be an unlawful employment practice. You are not supposed to know how he looks.

Remember, this is not in Russia, but in New York.

Mr. MASON. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. I yield.

Mr. MASON. And yet the State Department in order to grant a visa requires a photograph of the person to be presented with his application.

Mr. RANKIN. Certainly, and they ought to do so. Much as I respect the distinguished gentleman from Illinois [Mr. Mason] I certainly would not want to employ him unless I know how he looked. If I had never seen him, I would certainly want to see his picture.

Here is another unlawful practice:

"Inquiry whether an applicant for employment is a naturalized or native-born citizen, the date when the applicant acquired citizenship; whether the applicant's parents or spouse are naturalized or native-born citizens of the United States; the date when such parents or spouse acquired citizenship."

You cannot inquire into those questions under this FEPC law in New York.

Here is another unlawful practice:

"Requirement that an applicant for employment produce his naturalization papers or first papers."

He may lie to you and tell you that he is a naturalized citizen, but you cannot ask to see his papers.

Another unlawful practice in New York is to "Inquire into the lineage of an applicant for employment, his ancestry, or national origin."

You remember a few years ago the Dallas News inserted an advertisement for a colored janitor, and this FEPC outfit laid down the street ordered them to take it out, said it was an unlawful practice.

One member of this FEPC outfit here in Washington went into the office of Swift & Co. in Chicago. This FEPC man asked them: "How many Negroes do you have on your board of directors?"

The answer was "None."

Then the FEPC man asked him: "Why haven't you?"

That was the FEPC down here in Washington a few years ago before it died because a few radicals could not browbeat Congress into perpetuating it.

But it is now in force in the State of New York.

Here is another unlawful practice under the New York law.

"Inquiry into the location of places of business of relatives of an applicant for employment."

It is an unlawful practice to make "inquiry into the place of residence of the parents, spouse, or other close relatives of an applicant for employment."

I am reading from the records at Albany.

Here is another unlawful practice:

"Inquiry into the maiden name of the wife of a male applicant for employment and/or inquiry into the maiden name of the mother of a male or female applicant for employment."

The other day we had the Elders down here. One of them has been shown to be representing the Comintern, according to his sister's testimony. He has a brother out in California, who seems to be poisoning the public mind through the moving-picture industry. He tries to defend his brother and refers to this woman as "my former sister." If you wanted to employ any of them and check the name of at least one of them as given here, you could not inquire into those names at all—if you are trying to do business in the State of New York—even though one of them has a half-dozen aliases. You could not even ask where they came from or when they got here or when they changed their names.

Here is another unlawful practice in New York:

"Inquiry into the general military experience of an applicant for employment."

I wish every ex-serviceman could read that, and the next one.

Here it is. It is an unlawful practice to make "inquiry into the whereabouts of an applicant for employment during the First World War, i. e., during the period from 1914 to 1919."

In other words, inquiry as to his whereabouts in the period from 1914 to 1919 is forbidden as an unlawful practice in the State of New York.

Is that what you want in Colorado? Is that what you want in Massachusetts?

Mr. GIFFORD. We have it.

Mr. RANKIN. Get rid of it, and we will help you.

Is that what you want in Kansas, in Ohio, and in other States?

Let your States vote on it. Michigan is going to vote on it right away. If you will tell the people of Michigan the whole truth—let them know the whole truth about this monstrosity—I will guarantee you they will beat it worse than they did in California.

Here is another unlawful practice:

"Inquiry into the organizations of which an applicant for employment is a member, including organizations the name or character of which indicates the religion, race, or national origin of its members."

I presume, if they should ask me if I am a member of the Masonic lodge, I could have them jerked up and brought before this investigation board or probably prosecuted at various places throughout the country.

Mr. Speaker, I am not criticizing the people of New York. I have long since learned in going from one State to another that real Americans are about the same everywhere. I believe if they had a vote on it the people of New York would beat it, just as they did in California.

They are having a vote on it in Michigan because a little minority group has been attempting to browbeat the Legislature of Michigan into passing it. I dare say when it goes on the ballot in Michigan and the people of Michigan understand what it means, they will defeat it more thoroughly than they did in California. The same thing would happen in probably every other State in the Union.

Mr. AUGUST H. ANDERSEN. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. I yield to the gentleman from Minnesota.

Mr. AUGUST H. ANDERSEN. Will the gentleman tell us what the penalties are in New York?

Mr. RANKIN. In addition to being harassed to death with orders and directives to cease, desist, retire, and so forth, there is a punishment provided of "imprisonment in a penitentiary or county jail for not more than 1 year or by fine of not more than \$500, or by both."

Mr. GIFFORD. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. I yield to the gentleman from Massachusetts.

Mr. GIFFORD. I want to remind the gentleman that we have that law in Massachusetts.

Mr. RANKIN. I was afraid of that.

Mr. GIFFORD. I was thoroughly amazed when I looked into it; I had not learned what the rules were. But perhaps we carried it too far. I am so sorry, and I have been, and I am not in favor of this, I can assure the gentleman.

Mr. RANKIN. I know the gentleman is not, and I am sure the people of Massachusetts would not favor it if they had a vote on it.

Mr. CHURCH. Employers always inquire and must know whether you come from a respectable family or not. They are so careful. Perhaps they overdid it. But I think a man ought to be able to find out whether he came from a respectable family.

Mr. RANKIN. There are a great many questions that should be asked which are forbidden under this law.

Mr. Speaker, in order to give the new Members an idea of what a mess this FEPC was here in Washington during its existence under Executive order, I insert a speech I made on this subject in 1945.

It reads as follows:

"FEPC A BETRAYAL OF WHITE AMERICANS"

"(Speech of Hon. John E. Rankin, of Mississippi, in the House of Representatives, Thursday, July 12, 1945)

"Mr. RANKIN. Mr. Chairman, the passage of a law at this time legalizing this so-called FEPC would be a betrayal of the white people of the country. If every individual in the United States could understand just what it means, there would be such a roar of protest coming from every State in this Union that it would never see the light of day.

"If every Member of Congress would 'screw his courage to the sticking place' and vote his convictions on this so-called FEPC, it would not get 50 votes out of the entire membership of 435.

"It is a most dangerous and brazen attempt to fasten upon the white people of America the worst system of control by alien or minority racial groups that has been known since the Crucifixion.

"When I read the names of the personnel of this outfit you will understand what I mean.

"To sanction this organization by law would give the lie to everything we have told our American boys they were fighting for. Instead of coming back to liberty, freedom, and democracy, they would find themselves sold into this bondage, herded, humiliated, and regimented by alien influences directed by a foreign Comintern representing the deadly doctrine of Karl Marx that is based upon hatred for Christianity and for everything that is based on Christian principles.

"It is a manifestation in legislative form of that infidelity that has closed thousands of Christian churches in Europe and been responsible for the murder of untold millions of Christian human beings.

"This measure is not directed altogether at the white people of the South. If it were, you folks in the North would not have so much ground for alarm. We in the South know how to combat subversive elements. As Henry Grady once said, we wrested the South from such domination 'when Federal drumbeats rolled nearer and Federal bayonets hedged closer to the bullet box of the South than it ever will again in this Republic.'

"But you people in the North have not had that training, and this FEPC is likely to bring grief, strife, hatred, race riots, and chaos in your northern cities if this vicious agency is perpetuated and sanctioned by your votes.

"Do not forget that the returning servicemen know what this thing means, and they are going to call you to account next year—beginning with the primary. They are not going to wait until the general election.

"Do not forget that every businessman, every farmer, every professional man, and every other independent individual whose blood glows with the instinct of American liberty, is going to join these men, and those other patriotic forces that are fighting to save American institutions for which these boys have been fighting and dying upon every battlefield in the world.

"If every man and every woman in the United States could just read the list of individuals that compose the personnel of this crazy FEPC and its subdivisions throughout the country, I dare say there would not be enough of you left who vote for it, even if nominated in the primaries next year, to form a corporal's guard.

"For your information, and for the information of the American people generally, I am going to read you the official personnel as it exists today. Remember, this list is taken from the official record. This is the group that wants to nose into and control every business in the United States. Remember, they can search the files and records of every business establishment in America where

some disgruntled individual is willing to trump up a charge of discrimination. They can drag them all over the country and try them, and in that way destroy any ordinary business concern.

"The next thing they are going to try to do, is get control of your schools and force their communistic henchmen into the schools and teach your children their subversive doctrines.

"Read these lists carefully, which, as I said, are taken from the official records here in Washington, and you will see that not 1 out of 10 on these rolls is a white gentle American.

"Here is the official list :

Committee on Fair Employment Practices, Washington, D. C., Office of the Chairman

Incumbent	Title	Race	Salary
Hoss, Malcolm	Chairman	White	\$8,000
Johnson, George M.	Deputy chairman	Colored	8,000
Hubbard, Maceo	Hearings examiner	do	5,600
Bloch, Emanuel	do	White	5,600
Copper, Evelyn	do	do	5,600
Berking, Max	Assistant to chairman	do	3,800
Alexander, Dorothy	Secretary to chairman	Colored	2,600
Clifton, J. Jeanne	Secretary to deputy	do	2,000
Brooks, Mary	Clerk-stenographer	do	1,800
Banting, Myra	do	White	1,800

"You will note that in this office of the chairman, consisting of 10 people, there are five Negroes and five white people, most of whom have foreign names. One of the whites is a stenographer who receives the smallest salary of anyone on the list.

"Remember that the members of this group preside over the destiny of every business enterprise in America, and are using their assumed powers to harass white Americans out of business.

"This is the organization Members of Congress are being asked to perpetuate by the passage of this bill.

"FIELD OPERATIONS

"Here is the Division of Field Operations :

Field operations

Incumbent	Title	Race	Salary
Maslow, Will	Chief	White	\$6,500
Mitchell, Clarence	Principal fair-practice examiner	Colored	5,600
Davidsen, Eugene	do	do	5,600
Beall, W. Hayes	Senior fair-practice examiner	White	4,600
Mercer, Inez	Fair-practice examiner	do	3,600
Rogers, Eleanor	Clerk-stenographer	Colored	1,800
Safo, Otomo	do	Japanese-American	1,800
Thompson, Mildred	do	Colored	1,800
Cornick, Emma	do	do	1,600

"You will note that it consists of nine people—five Negroes, one Japanese, and three others—two of whom have records of affiliations with Communist-front organizations, according to the reports of the Dies committee.

"Imagine this group going about over the country riding herd on the white American businessmen of the Nation, telling them whom they shall employ, whom they shall promote, and with whom they may associate.

"It would be interesting, and probably enlightening, to check up on these people and see how many of them are native-born Americans.

"Members of Congress had better do this now, before they get caught in this trap, because this question of un-American activities is going to be an issue in every congressional district next year, beginning with the primaries.

"The people are not going to wait until the general election for someone who holds a commission as a result of the pernicious activities of Sidney Hillman and his gang to wrap the party cloak about him and shout to the people of his district that 'I am a Republican' or 'I am a Democrat.'

"More than 2,000,000 young men have already been discharged in this war, and they are organizing now to try to save America for Americans. They are going to read your records, and they are likely to ask you some very embarrassing questions when you get home.

"REVIEW AND ANALYSIS DIVISION

"Now look at this list and see who reviews all these records of racial discrimination when they come to Washington, and you will understand how the editor of the Dallas News felt and how other white gentiles feel, including Cecil B. DeMille, the great American movie producer, when they are harassed out of business.

"Here is the list:

Review and Analysis Division

Incumbent	Title	Race	Salary
Davis, John A.	Chief	Colored	\$5,000
Lawson, Marjorie	Research analyst	do	3,800
Gilguthy, Cornelius	Compliance analyst	do	3,200
Hemphill, India	do	do	2,600
Conn, Carol	do	White	2,600
Davis, Joy P.	do	Colored	2,600
Hoffman, Cella	Clerk-stenographer	White	1,800
Spaulding, Joan	do	Colored	1,800

"You will note that it consists of six Negroes and two white people, one of whom is named Carol Conn and the other Cella Hoffman, a white stenographer receiving the lowest salary on the list.

"Now, if you sign the petition to bring out this bill or vote for this monstrosity, do not forget that when you get home those white American businessmen who help to sustain this Nation in time of peace and whose sons are fighting its battles in time of war are going to want to ask you some questions that you may not be able to answer.

"LEGAL DIVISION

"But if you want a real laugh, look at this Legal Division.

Legal Division

Incumbent	Title	Race	Salary
Reeves, Frank D.	Attorney	Colored	\$4,600
Stickgold, Simon	do	White	4,600
Gordon, Genevive	Clerk-stenographer	Colored	1,800

"You will note that this so-called Legal Division consists of two Negroes and a Simon Stickgold.

"INFORMATION DIVISION

"Now we come to the Information Division. If you want information about this outfit, write to this Division:

Information Division

Incumbent	Title	Race	Salary
Bourne, St. Clair	Information specialist	Colored	\$3,800
Whitting, Margaret	Clerk-stenographer	do	1,800

"You will note that it consists of two Negroes, one registered as an information specialist and the other as a clerk-stenographer.

"BUDGET AND ADMINISTRATION

"Now we come to the Budget and Administration Division. This Division not only makes up the budget but administers the regulations. Here is the list:

Budget and administration

Incumbent	Title	Race	Salary
Jones, Theodore	Chief	Colored	\$5,600
Jeter, Sinclair	Assistant administrative officer	do.	3,200
Baker, Vivian D.	Clerk-stenographer	do.	2,000
Jackson, Rosales A.	Clerk-typist	do.	1,620
Paynter, Minnie A.	do.	do.	1,620
Holomon, Irving	Clerk	do.	1,440
Felby, Ralph R.	Chief, fiscal	do.	2,000
Ross, Sylvia D.	Voucher auditor	do.	2,000
Nelson, Otella	Accounting clerk	do.	1,620
Carpenter, Elizabeth	do.	do.	1,620
Brent, Pearl T.	do.	do.	1,620

"This outfit, which is composed of 11 Negroes, and no whites at all, not only makes up the budget for financing this aggregation, but it seems to have the power of administration. I hope you will read this list to your white businessmen, farmers, and ex-servicemen at home when you get back and ask for reannuation in the primaries next year.

"MAIL AND FILES DIVISION

"Now, here are the ones that have control of the mails and filing system:

Mail and files

Incumbent	Title	Race	Salary
Douglas, Lela	Chief, Mail and Files	Colored	\$2,000
Welch, Selena	Docket clerk	do.	1,800
Gamble, Jessie	File clerk	do.	1,620
Phillips, Rose	do.	do.	1,440
Reed, Charles	Messenger	do.	1,380
Mitchell, Regina	File clerk	do.	1,440

"You will note that this division is composed entirely of Negroes—six Negroes, and no whites at all. I wonder why they discriminated against the white race in setting up these two powerful branches of this most dangerous agency?

"REGIONAL OFFICE, NEW YORK

"Now, let us turn to the regional offices and see who is going to harass the business people back in the States. Here is the list for the State of New York:

Regional office, New York

Incumbent	Title	Race	Salary
Lawson, Edward H.	Regional director	Colored	\$5,600
Jones, Madison B.	Fair-practice examiner	do.	3,800
Jones, Robert G.	do.	do.	3,800
Donovan, Daniel R.	do.	White	3,800
Irish, Miriam	Clerk-stenographer	Colored	2,000
Amelia, Tillie	do.	White	1,620
Schwartz, Sonia	do.	do.	1,620

"This is the list that is going to help Governor Dewey harass the white American businessmen of the Empire State. You will note that it is composed of four Negroes and three white people. Please read the names of the three white people and see if you can figure out their antecedents.

"Businessmen of New York are going to have a hard time after this war without having all this communistic conglomeration to deal with, to say nothing of the one which Governor Dewey and his political henchmen have now heaped upon them.

"REGIONAL OFFICE, PHILADELPHIA

"Now, let us turn to Philadelphia, the birthplace of the Constitution—the City of Brotherly Love. At the risk of causing glorious old Benjamin Franklin to turn over in his grave, I read you the list:

Regional office, Philadelphia

Incumbent	Title	Race	Salary
Fleming, O. James	Regional director	Colored	\$5,600
Greenblatt, Mildred	Fair-practice examiner	White	3,800
Manley, Mita A.	do	Colored	3,800
Risk, Samuel H.	do	White	3,800
Grinnage, Willard	do	Colored	3,200
Gorges, Helen	Clerk-stenographer	do	1,800
Klinger, Karyl	do	White	1,800
Brown, Grayce	do	Colored	1,440

"You will note that it is composed of eight individuals—five Negroes and three whites, Mildred Greenblatt, Samuel R. Risk, and Karyl Klinger.

"Don't you know there will be some brotherly love when that crowd gets going on the businessmen of the Philadelphia area?

"REGIONAL OFFICE, WASHINGTON, D. C.

"Now, here is the regional office in Washington, D. C., the Nation's Capital, where there has been so much persecution of white gentiles in the last few years. Here is the list:

Regional office, Washington, D. C.

Incumbent	Title	Race	Salary
Evans, Joseph	Regional director	Colored	\$5,600
Houston, Theophilus	Fair-practice examiner	do	3,200
Kahn, Alice	do	White	2,600
Chiselm, Ruby	Clerk-stenographer	Colored	1,800
Urback, Dorothy	do	do	1,620

"You will note it consists of four Negroes and Alice Kahn. Just what chance a white gentile will have with this group is entirely problematical, to say the least of it.

"Don't you know the white people of Cleveland will enjoy being dominated by them?

"CINCINNATI REGIONAL OFFICE

"Cincinnati seems to be largely under the jurisdiction of the Cleveland office since it only has two people:

Cincinnati

Incumbent	Title	Race	Salary
James, Harold	Fair-practice examiner	White	\$4,600
	Clerk-stenographer		1,800

"DETROIT REGIONAL OFFICE

"Now let us move on to Detroit, Mich. Here is the regional office for Detroit:

Detroit

Incumbent	Title	Race	Salary
Swan, Edward	Examiner in charge	Colored	\$4,000
Sese, Doris K.	Clerk-stenographer	Japanese-American	1,620

"You will note that it is composed of one Negro and one Japanese. I know the businessmen of Detroit are grateful for this consideration.

"I should like to hear some of the comments they will make to you gentlemen from Detroit when you get home next summer, if you support this vicious measure.

"REGIONAL OFFICE, CHICAGO

"Here is the list of the regional office in the Windy City:

Regional office, Chicago

Incumbent	Title	Race	Salary
Henderson, Elmer	Regional director	Colored	\$5,600
Gibson, Harry H. C.	Fair-practice examiner	do	3,800
Schultz, Joy	do	White	3,800
Williams, Le Roy	do	Colored	3,200
Zeldman, Penny	Clerk-stenographer	White	1,800
Ingram, Marguerite S.	do	Colored	1,620

"You will note it is composed of four Negroes, Joy Shultz, and Penny Zeldman. I am told that a representative of this group went into the office of Swift & Co. and asked how many Negro members they had on their board of directors. The answer was, "We have no Negro members on our board of directors." Then the question came back, "Why haven't you?" This just shows what this super-governmental set-up is driving at. They want to communize America and destroy everything which our glorious ancestors have left us and for which our boys are now fighting and dying all over the world.

"REGIONAL OFFICE, ATLANTA

"Here is a list of the Atlanta office:

Regional office, Atlanta

Incumbent	Title	Race	Salary
Dodge, Witherspoon	Regional director	White	\$4,000
Hope, John	Fair-practice examiner	Colored	3,800
McKay, George D.	do	White	3,200
Chubb, Sally	Clerk-stenographer	do	2,000
Ingram, Thelma	do	Colored	1,800

"You will note that it consists of two Negroes and three whites; the most important post in this office, that of examiner, is held by a Negro. I wonder how the people of Georgia enjoy the domination of this group. I may have more to say about them later.

"REGIONAL OFFICE, KANSAS CITY

"Here is the list of the Kansas City office:

Regional office, Kansas City

Incumbent	Title	Race	Salary
Hoglund, Roy A.....	Regional director.....	White.....	\$5,000
Ornaker, Eugene.....	Fair-practice examiner.....	do.....	3,800
Jones, Mildred.....	Clerk-stenographer.....	Colored.....	1,620
Schleit, Helene G.....	do.....	White.....	1,620

"You will note that this office force consists of three whites and one Negro. You can read the list of whites yourself and then judge how many of them really represent the people of that area.

"ST. LOUIS REGIONAL OFFICE

"Here is the list of the regional office at St. Louis:

St. Louis

Incumbent	Title	Race	Salary
Theodore Brown.....	Examiner in charge.....	Colored.....	\$3,800
Morris Levine.....	Examiner.....	White.....	3,200
Arnatha Jackson.....	Clerk-stenographer.....	Colored.....	1,620

"You will notice that it consists of two Negroes and Morris Levine. Just how they came to select these particular individuals to preside over the destiny of the white businessmen of the great State of Missouri, I cannot understand.

"REGIONAL OFFICE, DALLAS, TEX.

"The members of the regional office at Dallas are as follows:

Regional office, Dallas

Incumbent	Title	Race	Salary
Castenada, Carlos.....	Regional director.....	White.....	\$4,000
(Vacancy).....	Fair-practice examiner.....	.....	3,200
Gutleben, Willetta.....	Clerk-stenographer.....	White.....	1,800

"You will note there is one vacancy. Last year that position was held by a Negro, namely, Roy V. Williams. The other two members, Carlos Castenada, the regional director, and Willetta Gutleben seem to be in charge of the office at the present time. This is the regional office that attacked the Dallas News last year for carrying an advertisement for a Negro janitor. This fellow Castenada, the director, held the same position that he holds now. If this set-up is made permanent, then I presume the rest of the white American businessmen in Texas may expect to be harassed just as the Dallas News was.

"REGIONAL OFFICE, NEW ORLEANS

"The regional office at New Orleans consists of the following members:

Regional office, New Orleans

Incumbent	Title	Race	Salary
Ellinger, W. Don.....	Regional director.....	White.....	\$3,800
Morton, James H.....	Fair-practice examiner.....	Colored.....	3,200
Ronning, Evelyn.....	Clerk-stenographer.....	White.....	1,800

"You will note that there are two whites and one Negro in this office. As the Negro is the fair-practice examiner, just what the decent people of Louisiana may expect, at the hands of this outfit is something to contemplate.

"REGIONAL OFFICE, SAN FRANCISCO

"The San Francisco office consists of the following individuals:

Regional office, San Francisco

Incumbent	Title	Race	Salary
Kingman, Harry L.	Regional director	White	\$5,000
Hutledge, Edward	Fair-practice examiner	do	4,000
Hess, Bernard	do	do	3,800
Seymour, Virginia	Administrative assistant	do	2,000
Maren, Jewel	Clerk-stenographer	do	1,800

"This is the only office we have found yet that consists entirely of white (?) people. Just what the background of each one of them is I am unable to say.

"LOS ANGELES REGIONAL OFFICE

"The Los Angeles regional office consists of the following:

Los Angeles

Incumbent	Title	Race	Salary
Hunt, A. Bruce	Hearings examiner	White	\$5,000
Brown, Robert E.	Fair-practice examiner	Colored	3,600
Lopez, Ignacio	do	White	3,800
Vetter, Vera G.	Clerk-stenographer	do	1,800
Loria, Marie	do	do	1,620

"You will note that there are four whites and one Negro in this office, the Negro being the fair-practice examiner. I do not know what consideration the white businessmen of the Los Angeles area are receiving at the hands of this group, but from what I can hear there is considerable gnashing of teeth over the situation.

"REGIONAL OFFICE, CLEVELAND

"Now, let us move out where the West begins and take a look. Here is the list in the Cleveland regional office:

Regional office, Cleveland

Incumbent	Title	Race	Salary
McKnight, William	Regional director	Colored	\$4,600
Abbott, Olcott R.	Fair-practice examiner	White	3,800
Chore, Lethia	do	Colored	3,200
Kelley, Bernita	Clerk-stenographer	do	1,620
Wasem, Edna	do	White	1,800

"You will note that this group is composed of three Negroes and two whites, Olcott R. Abbott and Edna Wasem.

"Mr. Chairman, this FEPC is a supergovernment of commissars, with more power for evil than any other agency that has ever been created in this country. If Congress should ratify it and make it the law of the land, then we will have sacrificed and destroyed that sacred freedom for which our brave men are now fighting and dying on every battle front in the world.

"We have no right to pass such a drastic, revolutionary measure that literally changes our way of life, as well as our form of government, while these boys are away from home in uniform, fighting to sustain American institutions.

"As I said before, we are going to carry this battle against such un-American activities into every congressional district in the United States next year, in the primary, so that no one can crawl behind the party cloak and claim immunity at the hands of any segment of our people.

"This is a battle for the survival of free enterprise, for the survival of American liberty itself.

"It is a battle to save America for Americans."

Mr. RANKIN. In the first place, Mr. Chairman, I want to say that there might be some difference of opinion as between me and the Governor as to whether or not the racial relations in the South are growing better or are growing worse. He spoke to you about representing a county called Issaquena. That is, from a racial standpoint, the blackest county in the State. That has the largest percentage of Negroes. I was born in the county and largely reared in the county called Itawamba—it and Issaquena are the only two counties in Mississippi that begin with the letter "I"—Itawamba is the whitest county in the State—94 percent of the people of that county are white.

I now live in Tupelo, Lee County, which I will say is about two-thirds white. During the course of my life I have lived in several counties—Itawamba, Clay, Monroe, Lee—in Mississippi; have lived there all my life. I have worked with Negroes ever since I was a boy.

But I want to talk to you about the viciousness of this legislation, and I am going to talk in terms that I am sure we can all understand. I think this measure will stir more race trouble as this agitation is stirring more race trouble than anything that has come along since I have been in public life.

For many years I was chairman of the Committee on World War Veterans' Legislation. I have often said that I am the best friend that real Negroes have in Congress. I never had these agitators to come before the Veterans' Committee to ask for a single thing for the disabled Negro veterans of any war. I have seen to it that they were taken care of as best I could.

Down in Tuskegee, Ala., we have the finest all Negro veterans Hospital in the United States. They never had the slightest trouble with me. I saw to it that that hospital got what it needed.

We have established one now at Mound Bayou, in my own State, and, strange as it may seem, some of these communistic agitators have attempted to throw sticks into that machinery. They are not interested in those Negroes down there, at all.

These Booker T. Washington people have come to me and asked me to help them get a hospital down here at Booker Washington's old home in Virginia. A day or two ago I offered an amendment to increase the amount to \$5,000,000, and made the motion to report the bill out. I understand it will come before this committee and I hope it will be reported out without a dissenting vote.

The agitation that is going on—and, by the way, let me say this: Every time I pick up the Communist Daily Worker or the uptown edition of the Communist Daily Worker, PM [laughter] and some of these Communist-dominated Negro publications I see where they refer to me as being a Negro-baiter, a Jew-baiter, a labor-baiter, and a Catholic-baiter. Now they have even got the religious proposition written in here.

I have been serving in the House of Representatives with members of the Catholic Church for 26 years. I asked several of them if they had ever heard of my saying anything derogatory to them or their religion. They said they had not. Why is this propaganda spread? Because I am leading a fight against the most dangerous influence that

America ever saw, and that is Communist infiltration. Strange to say, this is the chief plank in the Communist platform.

As I said, so far as the Negro is concerned, I have never heard a politician on the floor of the House or the Senate yet get up and rave at the South about the Negro question that didn't do it for purely political demagogery. I make no exceptions. They are trying to stir up some-thing, to get political strength at home. So far as the labor-baiting is concerned, I have been a laborer myself.

Senator Ives. Congressman——

Mr. RANKIN. I want to say this——

Senator Ives. May I interrupt you just 1 minute? I don't know how much of that was aimed at me. I don't want to repeat what I had occasion to say yesterday. I wish you would look at the transcript of yesterday's record, see what I said concerning that subject with relation to myself.

Mr. RANKIN. I shall be glad to look at the record if I have time.

Senator Ives. I shall appreciate it, if you have time.

Senator DONNELL. Congressman, you are going to discuss the bill itself, as I take it?

Mr. RANKIN. In just a moment, but I want to lay this predicate. I supported the labor bill, voted over the veto. Frankly, I think it would have been much better if we had adopted the House bill, but I think it is the best thing for the laboring people of the Nation as well as for us.

Now I make those statements and, as you know, I created the Committee on Un-American Activities and we know a great deal more about the influences that are agitating for this legislation. I am afraid, than some members who are not so well informed.

As the Governor told you, we have a majority of white people in the State. We have almost a million Negroes. This is the worst legislation, so far as the Negroes of this country are concerned, that I ever read.

Senator DONNELL. You mean this bill, S. 984?

Mr. RANKIN. I certainly do. The Negro is a tenant-at sufferance wherever he comes in contact with the white man. When you disturb that peaceful relationship, the Negro has to move. Where is he going? Already they have crowded into Philadelphia. The Negro population in Detroit has grown from 20,000 to 250,000. They had a race riot there 3 years ago and killed more Negroes than we have killed in Mississippi since Reconstruction.

The same thing happened in East St. Louis and the same thing happened in Springfield, Ill. You don't hear of these things down in the South, but every once in a while you find some fellow who wants to use the South as a sounding board, or a whipping boy to try to further stir up prejudice for his own political aggrandizement.

Now, I want to talk to you about this bill from a national standpoint. From a national standpoint it will do more harm than any other measure that I have ever read. Last year this proposition was placed on the ballot ticket in California and the people voted on it. A large number, purporting to represent my party, joined in advocating it. When the vote was finally counted, it lost by a clear majority in every single individual county in California.

Senator Ives. Congressman, it wasn't this particular bill?

Mr. RANKIN. It is a similar bill. They are all symptoms of the same disease, the same policy. They had it here and I will show you if you will give me time, I will show you what it did here.

By the way, I must take issue with the Senator, because I am going to quote from his own statement.

Now, they passed this law in the State of New York. They introduced it in almost every legislature in the United States that met this last year.

On the 13th of February I got an hour's time in the House and analyzed its operation in New York up to that time; and I also inserted a speech I had made on the FEPC monstrosity that was set up here by Executive order, giving the personnel and all. Untold thousands and tens of thousands of those speeches have been ordered and they put them in the hands of almost every legislator where this measure arose, and every single one of them that I have heard from turned it down.

They put on a terrific battle in Pennsylvania. The legislators of Pennsylvania asked for this information. That was all I had. We sent it to them and they killed it as dead as Hector.

They did the same thing in Nebraska and in other States; and if you leave this proposition to the votes of the people of Missouri, New Jersey, New York, Louisiana, Mississippi, Texas, or any other State, in my opinion, it will suffer the same fate.

Now, then, let me just take some of the regulations. I sent to Albany and got the regulations that are imposed because I was familiar with the regulations or the activities of this organization that was set up here in Washington by Executive order.

Now, let me show you some things that you can't ask in the State of New York; and, insofar as the businessmen not complaining, I get exactly the opposite reaction. They have been driven underground to a large extent.

Senator DONNELL. Congressman, do you mean by the term "reaction" that it is your judgment or do you have concrete expressions from businessmen in New York?

Mr. RANKIN. I get letters from New York every day.

Senator IVES. You understand, Congressman, that when the bill in New York was up, there was some opposition to it.

Mr. RANKIN. Yes, and if they had known exactly what it would mean, you would have had more opposition; and if you had left it to the people of the State and they had got a vote on it, in my opinion it would never have seen the light of day, especially if they had known that this was what was going to be imposed.

Senator IVES. In that connection, I want to point out, it has worked out a great deal better than as was predicted.

Mr. RANKIN. All right; I will tell you what it is doing now. They have virtually shut out—talk about the Negroes; we never deny a Negro work at home if we have work for him. How many of you ever had a hungry Negro to come to you and ask you for bread? That happens many, many times to a southern man and he gets relief.

But this bill in New York has virtually shut the Negroes out of employment. Why? Let me read you these regulations that have been adopted under it and discuss them just for a moment; and then I will show you why.

Here are some things that you can't do in the State of New York; they are forbidden in the State of New York; they are forbidden by the regulations adopted by this commission.

You can't make "inquiry into the original name of an applicant for employment whose name has been changed by court proceedings, or otherwise."

Does any man think that is to help the Negroes? You never saw a Negro in your life who would mind telling what his name was, what it always had been and what his grandfather's name was.

Here is another unlawful practice in New York: "Inquiry into the birthplace of the applicant for employment, the birthplace of his parents, spouse, or other close relative."

What is that for? You never heard a Negro object to answering that question.

Senator DONNELL. You mean a provision in the New York State regulations against inquiry into your affairs?

Mr. RANKIN. Yes, sir; I sent for these regulations, at the suggestion of Members of Congress from the State of New York who are disturbed over this situation.

Here is another thing they are forbidden to do. They are forbidden to "require that the applicant for employment produce a birth certificate or Laptismal certificate."

We have just convicted a man in this country, the most dangerous Communist I think I ever looked in the face of, a man by the name of Eisler. Under these regulations, you couldn't have inquired into Eisler's background.

Today we have Communist infiltration all over this country, and the thing that shocked me is, they undertake to use the Negro as a smoke screen.

Senator DONNELL. Congressman, I am not quite clear on what you mean here. Do you mean that the regulations forbid an employer, prospective employer, from making inquiry on these various things?

Mr. RANKIN. Absolutely. I am reading from the regulations.

Senator DONNELL. And they are not matters that the commission is precluded from examining into but they prohibit an employer from requiring an applicant to give those various bits of information?

Mr. RANKIN. That is right. And as they go on they get worse. It is an unlawful practice in New York under the law to make inquiry—now listen; I am quoting—

inquiry into the religious denomination of an applicant for employment, his religious affiliations, his church, parish pastor, or religious holidays observed.

Now, I never in my life heard of a man being asked whether he was a Baptist or a Methodist or a Catholic or a Presbyterian or what church he belonged to when he tried to get work. I have asked Members of the House, of all denominations. They say they never heard of such things. But here is the key, the next sentence:

Inquiry into whether an applicant for employment is an atheist.

It goes just a step further. You can't even make that inquiry, even though you are publishing religious literature.

An applicant for employment may not be told that this is a Catholic, Protestant, or Jewish organization.

Can you think of putting businessmen into a more complete strait-jacket than these regulations do?

An applicant for employment may not be told that the following holidays will be observed by the firm and no others, naming the holidays—

and I am quoting from the regulation—

e. g., Decoration Day and July the Fourth, et cetera.

Why is all that written into the regulations?

Again, there is another unlawful practice: "Requirement that an applicant for employment annex a photograph." When I read that in my speech, a distinguished gentleman from Illinois interrupted me, and I said to him: "Much as I respect the distinguished gentleman from Illinois, I certainly would not want to employ him unless I knew how he looked. If I had never seen him, I would certainly want to see his picture."

You can't make that requirement. You can't require, under those regulations, that a picture be submitted. They can plant Communists in every business establishment in New York under these regulations; and 60 percent of the members of the Communist Party are immigrants. That was testified to before the Committee on Un-American Activities less than 2 months ago by a former Ambassador to Russia, Mr. Bullitt.

Let's go a little further. Here is another thing you can't do:

Inquiry whether an applicant for employment is a naturalized or native-born citizen; the date when the applicant acquired citizenship; whether the applicant's parents or spouse are naturalized or native-born citizens of the United States; the date when such parents or spouse acquired citizenship—

is forbidden. You can't even inquire into any of those things under those regulations.

I will tell you why there isn't any more fuss coming out of New York. The businessmen of New York are frightened to death of this thing. I get the information from them directly.

"Requirement that an applicant for employment produce his naturalization papers or first papers," is forbidden. A man comes to you for a job, and you can't ask him whether he is a native-born citizen or where he came from; you can't even ask him for his naturalization papers or his first papers.

Isn't that a storm cellar for subversive elements?

Can you think of a greater storm cellar for the enemies of our country who are flooding into this country and have for the last few years?

The requirement that you cannot inquire into the lineage of an applicant for employment, his ancestry or national origin, for instance, in other words, you couldn't ask Eisler any questions. You couldn't ask for his picture even.

Inquiring into the location or place of business of relatives of an applicant for employment is forbidden. Why should that be forbidden? This thing in Washington drove businessmen out of business by the thousands, and I had hoped it would never rise again.

Inquiring into the general military experience of an applicant for employment is forbidden. Don't you know those untold thousands of businessmen from New York who participated in this war and the last war love a regulation like that?

But let's go a step further, and I am reading from the regulations adopted by that board or commission in New York; "Inquiry into the whereabouts of an applicant for employment during the First World War"—for example, during the period 1914 to 1919 is forbidden." That means that here is a big strapping fellow who comes in and wants a job. You can't ask where he came from or what his name was if he has had his name changed.

I see a man culling himself I. F. Stone lambasting Congress every day. His real name is Isidore Feinstein. Cordell Hull made him announce his name when he undertook to heckle Cordell Hull at a press conference.

Senator DONNELL. That is, a prospective employer could not ask that?

Mr. RANKIN. That is right. You could not ask him where he was during the First World War. You could not ask him if he was in a foreign country or in the service.

Here is another unlawful practice, and I am still reading from the regulations:

Inquiry into the organization of which an applicant for employment is a member, including organizations the name or character of which indicates a religion, race, or national origin of its members.

You couldn't ask me if I was a member of the Masonic Lodge if I should come and seek employment. Neither could you ask a man if he was a member of the Communist Party.

I am giving you that to show you just exactly the trend of this legislation, and it is all authorized in this bill.

Senator Ives. May I interrupt you there?

Mr. RANKIN. Certainly.

Senator Ives. I want to read a part of section 13 (a) of the bill before us, S. 984, which takes care of situations such as you cite:

If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution, nor shall any regulation or amendment having the same effect as that concerning which the concurrent resolution was passed be issued thereafter by the Commission.

Mr. RANKIN. Yes; it would be a lovely proposition to have to go to Congress to get a concurrent resolution after the businessmen had jumped out the window or had gone out of business because of being harassed by this thing, just as they did when they had the FEPC here in Washington.

The American people don't want to be harassed by this kind of stuff; and if you will take this home with you—and if you don't take it home, we will—because I can tell you the American people don't believe in this communistic legislation, and it is as far-reaching in its Communist totalitarian ramifications as an edict from Stalin himself.

Senator DONNELL. Have you had occasion to look into the question as to why there has been no cease-and-desist orders in New York?

Mr. RANKIN. I certainly have. I thank you very much, Senator.

Senator DONNELL. Will you tell us what your observations have been on that?

Mr. RANKIN. I certainly thank you, Senator. I was about to overlook that. The businessmen in New York tell me that they have had to resort to employment agencies to get around this thing, and in those employment agencies they have a string of questions about this long [indicating] that get around these regulations, and they tell me that there is hardly a Negro in New York can get by them.

That long list of questions that they use now virtually excludes the Negro from employment in the business enterprises of New York. The business people of New York are trying to save themselves.

Could you think of a businessman going into a State with that kind of law and those regulations and establishing a new business? I couldn't.

Senator DONNELL. I was particularly interested in trying to find out—and I have no knowledge at all on this—whether or not there has been any indication that the New York commission has been delaying in the institution of proceedings on the theory they are entitled to use an indefinite period of conciliation, persuasion, and conference. Is there any indication that they have just delayed rather than bring the matter to an issue? Have you observed anything along that line?

Mr. RANKIN. I will answer that by quoting a Member of Congress from New York. He said, "We just get by with it by failing to enforce it."

I quoted his words in this speech—"by failing to enforce it," I believe were his words.

Senator DONNELL. Do you quote that particular observation?

Mr. RANKIN. I quote that observation here.

Senator DONNELL. Who is the Congressman who said it?

Mr. RANKIN. I didn't give his name because he didn't authorize me to give it. I am sure if you will inquire of them, they will tell you the same thing.

Senator DONNELL. Do you find that in your speech, Congressman?

Senator ELLENDER. While Congressman Rankin is looking for that quotation, Mr. Chairman, may I interrupt? He has submitted to us certain rules and regulations that have emanated from this commission in New York. I am wondering if it would not be a good idea—not that I question the Congressman for having given us these rules and regulations—but wouldn't it be a good idea for the committee to have the clerk write to the commission in New York, the commission in New Jersey, and, in fact, in any State in which such a law is in operation, and obtain a copy for the record of these rules and regulations?

Senator DONNELL. I think that would meet the approval of the committee. Let the clerk be governed accordingly by that suggestion, please, and make that inquiry.

(Subsequently rules and regulations were received from the State commissions as follows:)

STATE OF NEW YORK, EXECUTIVE DEPARTMENT—STATE COMMISSION AGAINST DISCRIMINATION

RULES GOVERNING PRACTICE AND PROCEDURE BEFORE THE STATE COMMISSION AGAINST DISCRIMINATION

By virtue of the authority vested in it by section 130, subdivision 5, and section 132 of article 12 of the Executive Law, the State Commission Against Discrimination hereby establishes, adopts, and promulgates the annexed rules

governing practice and procedure before the State Commission Against Discrimination.

These rules shall become effective on the date that they are filed in the office of the Department of State of the State of New York in accordance with Article IV, Section 8 of the Constitution of the State of New York. They shall supersede the "Rules and Regulations Governing Practice and Procedure before the State Commission Against Discrimination" heretofore adopted and filed in the office of the Department of State on the 14th day of August 1945.

Signed at New York, N. Y., this 18th day of October 1946.

STATE COMMISSION AGAINST DISCRIMINATION,
HENRY O. TURNER, *Chairman*,
EDWARD W. EDWARDS, *Commissioner*,
CAROLINE K. SIMON, *Commissioner*,
ELMER A. CARTER, *Commissioner*,
JULIAN J. REISS, *Commissioner*.

Filed in the office of the Department of State of the State of New York this 6th day of November 1946.

STATE COMMISSION AGAINST DISCRIMINATION RULES GOVERNING PRACTICE AND PROCEDURE

RULES, promulgated by the State Commission Against Discrimination pursuant to Section 130, subdivision 5, and section 182 of Article 12 of the Executive Law.

1. *Definitions.*—a. The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

b. The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

c. The term "labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection in connection with employment.

d. The term "unlawful employment practice" includes only those unlawful employment practices specified in section 131 of the Law Against Discrimination.

e. The term "employer" does not include a club exclusively social, or a fraternal, charitable, educational or religious association or corporation, if such club, association, or corporation is not organized for private profit, nor does it include any employer with fewer than six persons in his employ.

f. The term "employee" does not include any individual employed by his parents, spouse, or child, or in the domestic service of any person.

g. The term "national origin" shall, for the purposes of these rules, include "ancestry."

h. The term "Commission," unless a different meaning clearly appears from the context, shall mean the State Commission Against Discrimination.

i. The term "Commissioner" shall mean one of the members of the State Commission Against Discrimination.

j. The term "Chairman" shall mean the duly appointed Chairman of the State Commission Against Discrimination, or in the event of his absence, the Acting Chairman designated by the remaining members of the Commission.

k. The terms "hearing Commissioners" shall mean the Commissioners designated by the Chairman to conduct a hearing.

l. The term "Commission's Attorney" shall mean the General Counsel to the State Commission Against Discrimination or anyone designated by him or by the Commission to act as its attorney.

m. The term "party" or "parties" shall mean the complainant and/or the respondent.

n. The term "Law" shall mean the New York State Law Against Discrimination.

o. The term "mail," unless otherwise specified, shall mean registered mail, return receipt requested.

2. *Complaint.*—a. Who may file:

(1) Any person claiming to be aggrieved by an alleged unlawful employment practice may, by himself or his attorney-at-law, make, sign, and file with the Commission a verified complaint in writing. Assistance in drafting and filing complaints shall be available to complaints at all Commission offices.

(2) The Industrial Commissioner or the Attorney General may, in like manner, make, sign, and file such complaint.

(8) Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this Law, may file with the Commission a verified complaint asking for assistance by conciliation or other remedial action.

b. Form. The complaint shall be in writing; the original being signed and verified before any notary public or other person duly authorized by law to administer oaths and take acknowledgments. Notarial services shall be furnished without charge by the Commission.

c. Contents. A complaint shall contain the following:

(1) The full name and address of the person making the complaint (hereinafter referred to as the "complainant").

(2) The full name and address of the person, employer, employment agency, or labor organization against whom the complaint is made (hereinafter referred to as the "respondent").

(3) A specific charge of discrimination because of race, creed, color, or national origin followed by a clear and concise statement of the facts which constitute the alleged unlawful employment practice.

(4) The date or dates of the alleged unlawful employment practice, and if the alleged unlawful employment practice is of a continuing nature, the dates between which said continuing acts of discrimination are alleged to have occurred.

(5) A statement as to any action or proceeding instituted in any other form for the same unlawful employment practice alleged in the complaint, together with a statement as to the disposition of such other action or proceeding.

d. Place of Filing. A complaint shall be filed with the State Commission Against Discrimination at any of its offices.

e. Time of Filing. The complaint must be filed within 90 days from the date of the occurrence of the alleged unlawful employment practice. If the alleged unlawful employment practice is of a continuing nature, the date of the occurrence of said alleged unlawful employment practice shall be deemed to be any date subsequent to the commencement of the alleged unlawful employment practice up to and including the date upon which the alleged unlawful practice shall have ceased.

f. Manner of Filing. The complaint may be filed by personal delivery, ordinary mail, or registered mail, addressed to any of the Commission's offices.

g. Service of Complaint. A copy of the complaint, as the same may have been amended, shall be served by the Commission on the respondent together with the notice of hearing as provided in Rule 5. A copy of all amendments to the complaint effected subsequent to service of the notice of hearing shall be served by the Commission on both the complainant and the respondent except such amendments to the complaint as are inscribed in the record during the course of a hearing.

h. Complaint Forms. Complaint forms may be obtained at any of the offices of the Commission.

i. Amendment of Complaint.

(1) The complaint may be amended by the complainant or by the Commission.

(2) A complaint, or any part thereof, may be fairly and reasonably amended as a matter of right at any time before the first hearing and thereafter in the discretion of the Hearing Commissioners.

j. Withdrawal. A complaint, or any part thereof, may be withdrawn only on consent of one or more Commissioners as hereinafter set forth and upon such conditions as shall be deemed proper under all the circumstances.

(1) If the request for withdrawal is made before the case has been noticed for hearing, the consent of the Commissioner to whom the case has been assigned shall be obtained.

(2) If the request for withdrawal is made after the case has been noticed for hearing, the consent of two of the Commissioners assigned to the hearing shall be obtained.

k. Dismissal of the Complaint. If the Commissioner designated by the Chairman to conduct an investigation of the allegations of the complaint shall determine, either on the face of the complaint or after investigation that said complaint should be dismissed, he shall dismiss the complaint and notify the parties by mail of his decision and of the complainant's right to apply for a reconsideration. Said decision dismissing the complaint shall not, however, preclude the Commissioner, whenever justice so requires, from reconsidering his decision at any time, and taking such further action as he may deem necessary, on notice to all parties.

1. **Application for Reconsideration of Dismissal of Complaint.** If the Commissioner investigating the allegations of the complaint dismisses such complaint, the complainant may apply for a reconsideration of such dismissal by three other Commissioners. The application must be in writing and state specifically the grounds upon which it is based. It shall be filed within 10 days from the date of the notice of dismissal, in the office of the Commission where the complaint was previously filed.

m. **Granting Application for Reconsideration.** An application for reconsideration of a dismissal of a complaint prior to hearing shall be granted or denied at the discretion of the Chairman.

n. **Reconsideration.** If an application for reconsideration is granted, the Chairman shall designate three Commissioners, other than the Commissioner who dismissed the complaint. Said Commissioners shall review the entire file, and, in their discretion, hear the parties, and affirm, modify, or reverse the original determination. (A record shall be made of the proceeding.) If the original determination is modified or reversed, the matter shall be remitted for such further action as the Commissioners may order, to the Commissioner who dismissed the complaint.

8. **Investigation, Conference, Conciliation, and Persuasion.**—a. **Investigation.** After the filing of a complaint the Chairman shall designate one of the Commissioners to make, with the assistance of the Commission's staff, a prompt investigation of the allegations of the complaint.

b. **Conference, Conciliation, and Persuasion.** If the Commissioner finds that probable cause exists for crediting the allegations of the complaint, he shall immediately endeavor to eliminate the unlawful employment practices complained of by conference, conciliation, and persuasion.

c. **Non-disclosure of Facts Elicited in the Course of Endeavor to Conciliate.** The members of the Commission and its staff shall not disclose what has transpired in the course of its endeavors at conferences, conciliation, and persuasion.

d. **Conciliation.** If the Commissioner shall succeed in his endeavors of conference, conciliation, and persuasion, he shall mark the case "satisfactorily adjusted" and notify the parties by mail of the terms of such disposition and of the complainant's right to apply for reconsideration. Such disposition of a case by conference, conciliation, and persuasion shall not, however, preclude the Commissioner, whenever justice so requires, from reconsidering the terms of such conciliation at any time and taking such further action as he may deem necessary, on notice to all parties.

e. **Application for Reconsideration of Terms of Conciliation.** If the Commissioner investigating the allegations of the complaint effects a conciliation and marks the case "satisfactorily adjusted," the complainant may apply for a reconsideration of the terms of such conciliation by three other Commissioners. The application must be in writing and state specifically the grounds upon which it is based. It shall be filed within 10 days from the date of mailing the notice of disposition in the office of the Commission where the complaint was previously filed.

f. **Granting Application for Reconsideration.** An application for reconsideration of the terms of conciliation shall be granted or denied at the discretion of the Chairman.

g. **Reconsideration.** If an application for reconsideration is granted, the Chairman shall designate three Commissioners other than the Commissioner who effected the conciliation. Said Commissioners shall review the entire file, accord the parties an opportunity to be heard, and approve or disapprove the terms of conciliation. If the terms of conciliation are disapproved, the matter shall be remitted to the Commissioner who effected the conciliation for further action. A record shall be made of the proceeding.

4. **Answer.**—a. **Who May File.** The party or parties against whom a complaint or amended complaint is filed may file a written verified answer in person or through an attorney-at-law within 10 days from the date of service of such complaint or amended complaint.

b. **Extension of Time for Filing.** Upon application the Chairman may for good cause shown extend the time within which the answer may be filed.

c. **Place and Manner of Filing.** The answer must be filed in duplicate at the office of the Commission from which the complaint emanated. The filing shall be by personal delivery or by mail.

d. **Form of Answer:**

(1) The answer shall be in writing, the original being signed and verified by the respondent or by his attorney at law. The answer shall contain the post-office address of the respondent.

(2) The answer shall contain a general or specific denial of each and every allegation of the complaint controverted by the respondent, or a denial of any knowledge or information thereof sufficient to form a belief, and a statement of any matter constituting a defense.

(3) Any allegation in the complaint which is not denied or admitted in the answer, unless the respondent shall state in the answer that he is without knowledge, or information sufficient to form a belief, shall be deemed admitted.

e. Amendment. The answer, or any part thereof, may be amended as a matter of right at any time before the first hearing and thereafter in the discretion of the hearing Commissioners on application duly made therefor. Duplicate copies of the amended answer must be filed with the Commission.

f. Opening Default. Upon application, the Chairman may, for good cause shown, open a default in answering.

g. Service of Answer. The Commission shall, within two days after the date of filing an answer or amended answer, mail a copy thereof to the complainant at his last known place of residence, or to his attorney.

5. Hearings.—a. When Hearing Ordered. In case of failure to eliminate an alleged unlawful employment practice, or in advance thereof, if, in his judgment, circumstances so warrant, the Commissioner shall cause to be issued and served in the name of the Commission a copy of the verified complaint as the same may have been amended, together with a written notice of hearing.

b. Notice of Hearing. The notice of hearing shall state the time and place of hearing, inform the respondent that he may file a written verified answer to the complaint, and that a failure to answer shall be deemed an admission of the allegations of the complaint. The notice of hearing shall be sent by mail to all parties at least fifteen days before the date of such hearing.

c. Appearances at Hearing. The complainant shall be present and may, in the discretion of the hearing Commissioners, be allowed to intervene, present oral testimony or other evidence, and examine and cross-examine witnesses in person or by counsel. The respondent may appear at the hearing in person or by counsel, cross-examine witnesses, and, if he has filed an answer, he may submit oral testimony and other evidence in support of said answer. The Industrial Commissioner and the Attorney General may be represented by one of their attorneys and such attorneys may present oral testimony or other evidence and examine and cross-examine witnesses. Any other person may, in the discretion of the hearing Commissioners, be allowed to intervene, in person or by counsel, for such purposes and to such extent as the hearing Commissioner shall determine.

d. Who Shall Conduct Hearings. Hearings shall be conducted by three members of the Commission designated by the Chairman. The Chairman shall designate one of the three Commissioners as the presiding member. The Commissioner who shall have conducted the investigation which led to the hearing shall not be designated as a hearing Commissioner.

e. Place of Hearing. Hearings shall be held at a place designated by the Chairman of the Commission having due regard to the convenience of the parties and their witnesses.

f. Procedure at Hearing:

(1) The case in support of the complaint shall be presented before the hearing Commissioners by the Commission's attorney.

(2) The Commissioners shall not be bound by the strict rules of evidence prevailing in courts of law or equity.

g. Stipulations. Stipulations may be introduced in evidence, if signed by the person sought to be bound thereby or by his attorney at law.

h. Record of Hearing:

(1) The hearing Commissioners shall have full authority to control the procedure of the hearing; to admit or exclude testimony or other evidence; and to rule upon all motions and objections.

(2) The hearing Commissioners may call and examine witnesses, direct the production of papers or other matter present in the hearing room, and introduce documentary or other evidence.

(3) All oral testimony shall be given under oath or affirmation, and a record of the proceeding shall be made and kept.

(4) All rulings and determinations of the hearing Commissioners shall be by majority vote.

i. Evidence of Endeavors to Conciliate. No testimony or evidence shall be given or received at any hearing concerning endeavors to conciliate an alleged unlawful employment practice.

j. Continuation and Adjournments of Hearings. The hearing Commissioners may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing or by appropriate notice.

k. Motions and Objections. Motions made during a hearing and objections with respect to the conduct of a hearing, including objections to the introduction of evidence, shall be stated orally and shall be included in the stenographic report of the hearing.

l. Oral Arguments and Briefs. The hearing Commissioners shall permit the parties, the Commission's attorney, and interveners to submit oral argument before them and to file briefs within such time limits as the hearing Commissioners may determine.

m. Improper Conduct. The hearing Commissioners may exclude from the hearing room or from further participation in the proceeding any person who engages in improper conduct before them, except a party, his attorney at law, or a witness engaged in testifying.

n. Public Hearings. Hearings shall be public.

6. Record.—**a.** The record of the proceedings before the Commission shall consist of the complaint and amended complaint, if any, the answer, and amended answer, if any, notices of hearing, written applications, orders, stenographic transcript of the record on the hearing, exhibits, depositions, and the final order.

7. Subpoenas.—**a. Issuance.** The Commission or any member thereof, shall issue subpoenas, either at its own instance, or, upon written application, at the instance of any party to the proceeding, whenever necessary to compel the attendance of witnesses and the production of books, pay rolls, personnel records, correspondence, documents, papers, or any other evidence which relates to any matter under investigation or in question, before the Commission or any member thereof. The issuance of such subpoenas at the instance of a party to the proceeding shall depend upon a showing of the necessity therefor.

b. Payment of Fees. Where a subpoena is issued at the instance of a party to the proceeding other than the Commission or a member thereof, the cost of service and witness and mileage fees shall be borne by the party at whose request the subpoena is issued. Where a subpoena is issued at the instance of the Commission, or a member thereof, the cost of such service and witness and mileage fees shall be borne by the Commission. Such witness and mileage fees shall be the same as are paid witnesses in the State Supreme Court.

8. Depositions.—**a.** Any Commissioner, on his own motion or on the application of one of the parties, shall, whenever necessary, and on such terms and conditions as he may determine, take or cause to be taken depositions of witnesses residing within or without the State. Commissions to take testimony shall be issued under the seal of the Commission.

9. Orders.—**a. Contents of Orders.** An order of the Commission issued after hearing shall set forth the findings of fact of the hearing Commissioners, their decision and, in their discretion, an opinion containing the reason for said decision.

b. Issuance of Orders. If, upon all the evidence at the hearing, the hearing Commissioners shall find that a respondent has engaged in any unlawful employment practice, the hearing Commissioners shall state their findings of fact and shall issue an order requiring such respondent to cease and desist from such unlawful employment practice and to take such affirmative action, including (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, or restoration to membership in any respondent labor organization, as, in the judgment of the hearing Commissioners, may be proper and including a requirement for a report on the manner of compliance. If, upon all the evidence, the hearing Commissioners shall find that a respondent has not engaged in an unlawful employment practice, the Commission shall state its findings of fact and shall issue an order dismissing the complaint as to such respondent.

c. Disagreement Among Commissioners. When the decision of the hearing Commissioners is not unanimous, the decision of the majority shall control. Any Commissioner may, in his discretion, file a concurring or dissenting opinion.

d. Notice of Order. Copies of orders shall be mailed to the complainant, respondent, and all interveners, accompanied by a notice of the statutory right to judicial review. A copy of the order shall also be delivered in all cases to the Industrial Commissioner, Attorney General, and such other public officers as the Commission deems proper.

e. Filing of Orders. All orders rendered after a hearing shall be filed with the Executive Secretary and with all offices maintained by the Commission.

These orders shall be open to public inspection during regular office hours of the Commission.

10. Reopening of Proceedings.—a. Who may Reopen Proceedings:

(1) The Commission on its own motion may, whenever justice so requires, reopen any matter previously closed by it, upon notice of such reopening being given to all parties and interveners.

(2) A complainant, respondent, or intervener may for good cause shown apply for the reopening of a previously closed proceeding.

(3) Upon application duly made, the Commission, in its discretion, may reopen any matter previously closed where a decision was rendered upon the default of a party affected thereby.

11. Judicial Review.—a. Who May Apply for Judicial Review. Any complainant, respondent, or other person aggrieved by such order of the Commission may obtain judicial review thereof, and the Commission may obtain an order of court for its enforcement.

b. Copy of Testimony to be Available to Parties. The Commission's copy of the testimony shall be available during the regular office hours of the Commission to all parties for examination without cost and for the purpose of judicial review of the order of the Commission. The Commission's copy of the testimony shall, in the discretion of the hearing Commissioners, also be available to interveners and other persons, for such purposes and to such extent as the hearing Commissioners may determine.

c. Representation of Commission in Judicial Review. The Commission may appear in court by its attorney.

d. Forum for Judicial Review. Appeals for judicial review of decisions and orders of the Commission shall be brought in the Supreme Court of the State within any county wherein the unlawful employment practice which is the subject of the Commission's order occurs or wherein any person required in the order to cease and desist from an unlawful employment practice or to take other affirmative action resides or transacts business.

e. Time Within Which to File for Judicial Review. A proceeding for judicial review of an order of the Commission must be instituted within 80 days after the service by mail of such order.

12. Exclusiveness of Remedy.—a. As to acts declared unlawful by section 181 of the Law, the procedure herein provided shall, while pending, be exclusive. The final determination of the Commission shall exclude any other action, civil or criminal, based on the same grievance of the individual concerned. If such individual institutes any action based on the same alleged unlawful employment practice without resorting to the procedure provided in this Law, he may not subsequently resort to the procedure herein.

13. Amendments of Rules.—a. How Rules May be Amended. Any rule established by the Commission governing practice and procedure before it, may be amended, modified, rescinded or superseded by the Commission at any executive session, provided that three members are present, and notice of the proposed amendment, modification or repeal was given to all members of the Commission at least 24 hours before the meeting at which action is to be taken.

b. Filing with Department of State. Amendments, additions, modifications or repeal of these rules shall be filed in the Department of State.

c. Availability to the Public. These rules, and any amendment, addition or modification thereof, shall be available to the public at all offices of the Commission.

14. Construction of Rules.—a. These rules shall be liberally construed to effectuate the purposes and provisions of the Law and the policies of the State Commission Against Discrimination.

STATE OF NEW YORK, EXECUTIVE DEPARTMENT—STATE COMMISSION AGAINST DISCRIMINATION

RULINGS

The law against discrimination is an expression of the will of the people of the State of New York that employment practices in this State shall reflect the American principle of equal opportunity for all.

The law requires that consideration be given to all employees and applicants for employment on the basis of their qualifications as individuals regardless of

race, creed, color, or national origin. It does not restrict an employer's right to fix the qualifications necessary for satisfactory job performance. It merely requires that the same standards of qualification be applied equally to all persons.

The law covers every avenue to employment, i. e., employers, employment agencies, and labor unions. It also applies to fellow employees, publications carrying help wanted and positions wanted advertising, and circulating media.

Inquiries which directly or indirectly disclose a person's race, creed, color, or national origin are designated as unlawful employment practices, when such inquiries are made prior to employment. No restriction is placed on inquiries made after employment, provided the information obtained is not used for purposes of discrimination.

The commission is aware that the prohibited inquiries are frequently made without any intent to discriminate and that these inquiries are often necessary to enable an employer to check on an applicant's honesty, character, etc. Information for these purposes, however, can generally be obtained through channels which do not reveal a person's race, creed, color, or national origin. Thus, proof of age may be established through certificates of age and work permits which are issued by the department of health and board of education. Character may be determined by investigating prior places of employment and education. Other data may be secured subsequent to employment.

Inquiries which may not be made prior to employment are generally of four types: (1) Direct inquiries into race, creed, color, or national origin; (2) inquiries which have no relation to job performance yet frequently elicit information as to race, creed, color, or national origin, e. g., "Have you ever changed your name, and if so, what was your name before you changed it?" (3) requirements for the production of documents which contain information as to race, creed, color, or national origin even though said documents are required for other purposes, e. g., birth certificates, baptismal certificates, naturalization papers, etc.; (4) specifications which are likely to exclude members of a particular race, creed, color, or national origin, e. g., "The following holidays will be observed and no others (naming holidays)."

The law recognizes certain bona fide occupational qualifications. As a general rule, however, and subject to the particular facts in specific cases, the race, creed, color, or national origin of an employee or applicant for employment will not be deemed a bona fide occupational qualification unless these attributes are material to job performance. Traditional practices, or the preference of customers, employers, and employees to deal or work with persons of a particular race, creed, color, or national origin, or the maintenance of a business atmosphere identified with a particular race, creed, color, or national origin will not, as a general rule, be deemed material to the existence of a bona fide occupational qualification.

The following rulings are interpretive of the law. The publication or circulation (except in domestic service) of any help wanted or positions wanted advertisement which violates these rulings will be deemed an unlawful employment practice. Where it is claimed that compliance with these rulings will impose undue hardship, or contravene the provisions of other statutes, the commission will review its rulings on presentation of satisfactory proof.

Subject of inquiry	Lawful employment practices	Unlawful employment practices before hiring
Name.....	Requirement that an applicant for employment write or print his name on an application for employment. Inquiry into the maiden name of a married woman applicant for employment.	Inquiry into the original name of an applicant for employment whose name has been changed by court proceedings or otherwise.
Address.....	Inquiry into the place of residence of an applicant for employment.	
Birthplace.....		Inquiry into the birthplace of an applicant for employment or birthplace of his parents, spouse, or other close relatives.
Age.....	Requirement that an applicant for employment state his age and submit proof thereof in the form of a certificate of age or work permit issued by the department of health and board of education.	Requirement that an applicant for employment produce a birth or baptismal certificate.

Subject of Inquiry	Lawful employment practices	Unlawful employment practices before hiring
Religion.....	<p>Inquiry into whether an applicant for employment regularly attends a house of religious worship.</p> <p>An applicant for employment may be told: "This is a 6-day job and employees are required to work Monday through Saturday, inclusive."</p>	<p>Inquiry into the religious denomination of an applicant for employment; his religious affiliations, his church, parish, pastor, or religious holidays observed. Inquiry into whether an applicant for employment is an atheist.</p> <p>An applicant for employment may not be told: "This is a (Catholic, Protestant, or Jewish) organization."</p> <p>An applicant for employment may not be told: "The following holidays will be observed by this firm and no others (naming holidays, e. g., Decoration Day, July Fourth, etc.)."</p> <p>An applicant for employment may not be told: "Employees are required to work Hosh Rabbah and Yom Kippur."</p>
Race or color.....	<p>Requirement that an applicant for employment state whether or not he is a citizen of the United States and if not, whether he intends to become a citizen of the United States.</p> <p>Requirement that an applicant for employment state whether he has ever been interned or arrested as an enemy alien.</p>	<p>Inquiry into the complexion of an applicant for employment.</p> <p>Requirement that an applicant for employment annex a photograph.</p> <p>Inquiry whether an applicant for employment is a naturalized or native-born citizen; the date when the applicant acquired citizenship; whether the applicant's parents or spouse are naturalized or native-born citizens of the United States; the date when such parents or spouse acquired citizenship.</p> <p>Requirement that an applicant for employment produce his naturalization papers or first papers.</p>
Lineage.....		<p>Inquiry into the lineage of an applicant for employment, his ancestry or national origin.</p>
Education.....	<p>Inquiry into the academic, vocational, or professional education of an applicant for employment and the public and private schools he has attended.</p>	
Experience.....	<p>Inquiry into the work experience of an applicant for employment.</p>	
Character.....	<p>Inquiry into the character of an applicant for employment.</p>	
Relatives.....	<p>Inquiry into the location in the United States of places of business of relatives of an applicant for employment.</p>	<p>Inquiry into the location (general) of places of business of relatives of an applicant for employment.</p>
		<p>Inquiry into the place of residence of the parents, spouse or other close relatives of an applicant for employment.</p>
		<p>Inquiry into the maiden name of the wife of a male applicant for employment and/or inquiry into the maiden name of the mother of a male or female applicant for employment.</p>
	<p>Inquiry into the name, address, and relationship of persons who are to be notified "in case of accident."</p>	
Military experience.....	<p>Inquiry into the military experience of an applicant for employment in the armed forces of the United States or State militia.</p>	<p>Inquiry into the general military experience of an applicant for employment.</p>
		<p>Inquiry into the whereabouts of an applicant for employment during the First World War, i. e., during the period from 1914 to 1919.</p>
Organizations.....	<p>Inquiry into the organizations of which an applicant for employment is a member, excluding organizations the name or character of which indicates the religion, race, or national origin of its members.</p>	<p>Inquiry into the organizations of which an applicant for employment is a member, including organizations the name or character of which indicates the religion, race, or national origin of its members.</p>
	<p>Inquiry into whether an applicant for employment is a member of the Communist Party or German-American Bund.</p>	

STATE COMMISSION AGAINST DISCRIMINATION

GENERAL REGULATION

Regulation promulgated by the State commission against discrimination pursuant to section 130, subdivision 5 and section 132 of article 12 of the executive law filed with the secretary of state November 1, 1946.

1. Posting of notices

a. Every employer, employment agency, and labor organization, subject to the law against discrimination, shall post and maintain at their establishments, notices furnished by the State commission against discrimination, indicating the substantive provisions of the law against discrimination, where complaints may be filed and such other information as the State commission against discrimination deems pertinent.

b. With respect to employers and employment agencies, such notices must be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment and at or near each location where the employees' services are performed.

c. With respect to labor organizations, such notices must be posted conspicuously in easily accessible and well-lighted places customarily frequented by members and applicants for membership.

STATE OF NEW JERSEY, DEPARTMENT OF EDUCATION, DIVISION AGAINST DISCRIMINATION

RULES OF PRACTICE

Established Pursuant to Section 17, Chapter 169, Public Law 1945, and Effective as of September 17, 1945

John H. Bosshart, Commissioner

Dated September 17, 1945.

RULES OF PRACTICE

1. As used in these rules, unless a different meaning clearly appears from the context, "Commissioner" shall mean the Assistant Commissioner of Education assigned to the Division against Discrimination, since under section 8A of the statute (Chapter 169, P. L. 1945) such Assistant Commissioner shall act for the Commissioner, in his place and with his power.

2. Any complaint made pursuant to the statute shall be filed at the office of the Division against Discrimination, 1000 Broad Street, Newark, New Jersey. Two copies of the complaint shall accompany the original.

3. The complaint shall be typed, and shall be entitled according to the following specimen:

State of New Jersey, Department of Education, Division against Discrimination

John Doe, COMPLAINANT,

vs.

RICHARD ROE, RESPONDENT.

COMPLAINT

4. The complaint shall state the name and residence of the complainant, as well as the name and address of the respondent (person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of); shall set forth the date and other particulars of the alleged act of discrimination, specifying the subsection of section eleven of the "Law Against Discrimination" (Chapter 169, P. L. 1945) on which the complaint is based; and shall contain a declaration that the complainant has not instituted any other action based on the grievance alleged in the complaint.

5. The complaint, whether signed by the complainant or his attorney-at-law, shall be verified by the complainant. The verification shall be in the form of a

short affidavit in which the complainant deposes that he has read or has had read to him, as the case may be, the complaint to which the affidavit is annexed, and that the statements therein made and the particulars therein set forth are true.

6. The facilities of the office of the Division shall be available, during office hours, to any person claiming to be aggrieved by an alleged unlawful employment practice, to the end that such person may be given advice and assistance relative to the filing of a complaint.

7. After the filing of the complaint, the Commissioner shall cause prompt investigation to be made in connection therewith. If, after such investigation, the Commissioner shall determine that probable cause does not exist for crediting the allegations of the complaint, he shall by letter notify the complainant or his attorney, as the case may be, to that effect. If, however, the Commissioner shall determine that probable cause exists for crediting the allegations of the complaint, he shall endeavor to eliminate the unlawful employment practice complained of by conference, conciliation and persuasion.

8. Issuance and service of a notice of hearing, together with a copy of the complaint, upon the respondent, pursuant to section 14 of the statute, shall be deemed to establish the failure to eliminate by conference, conciliation and persuasion the unlawful employment practice complained of or the judgment of the Commissioner that circumstances warranted the issuance and service thereof. Such notice shall include a statement apprising the respondent that under the terms of the statute the respondent may file a written verified answer to the complaint but that the same is not necessary, and that, whether an answer is filed or not, the respondent may appear at the hearing in person or representative, with or without counsel, and submit testimony.

9. If the respondent elects to file an answer as permitted by the statute, he shall do so at least ten days before the day set for the hearing. The answer shall be typed, shall be entitled in the cause, and shall be filed at the office of the Division against Discrimination, 1060 Broad Street, Newark, New Jersey. Two copies of the answer shall accompany the original.

10. In the discretion of the Commissioner, the complainant may be allowed to intervene and present testimony in person or by counsel. If the complainant is allowed to intervene, the Commissioner shall enter an order to that effect. The application to intervene shall be typed and shall state the reasons therefor and whether the complainant will appear in person or by counsel. Such application shall be filed at the office of the Division against Discrimination at least five days before the day set for the hearing. Two copies of such application shall accompany the original.

11. Subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of books, records, documents and other papers at the hearing may be obtained by the parties upon request to the Commissioner.

12. Notices, subpoenas, orders and all other papers relating to any hearing, and all papers relating to any matter under investigation or inquiry, shall bear the name of the Commissioner and shall be countersigned by the Assistant Commissioner.

13. The Commissioner may, upon his own motion, or upon motion made in behalf of the complainant or respondent, adjourn any hearing from time to time.

14. In the event of failure of the complainant to appear personally at the time and place designated for the hearing, or at the time and place to which the hearing may be adjourned, the Commissioner may, in his discretion, dismiss the complaint.

15. In the event of failure of the respondent to appear at the time and place designated for the hearing, or at the time and place to which the hearing may be adjourned, the Commissioner may, in his discretion, permit the hearing to proceed ex parte, and he shall make his findings upon the evidence so presented.

16. All hearings shall be held at the office of the Division against Discrimination, 1060 Broad Street, Newark, New Jersey, unless otherwise designated.

17. The rules herein contained shall be considered as general rules of practice to govern, expedite and effectuate the procedure before, and the actions of, the Commissioner in connection with complaints filed pursuant to the statute; and, except as to such parts thereof as are statutory provisions, they may be relaxed or dispensed with by the Commissioner, in his discretion, in any case where a strict adherence thereto may result in injustice.

A PRIMER FOR THE PUBLIC ON THE NEW JERSEY "LAW AGAINST DISCRIMINATION"

(P. L. 1945, ch. 100)

"The Legislature finds and declares that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin or ancestry, are a matter of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and foundation of a free democratic State" (Sec. 3, New Jersey Law Against Discrimination).

The law

The New Jersey "Law against discrimination" (sometimes called the fair employment practices law) was signed by Governor Edge and became effective on April 16, 1945, and is contained in Chapter 100 of the Laws of 1945.

The object of the law

To eliminate discrimination, because of race, creed, color, national origin or ancestry, in employment and in other fields of human relationships—in employment, by enforceable remedy; in other instances by the fostering of good will through community effort.

Employment practices forbidden by the law

It is unlawful for an employer: 1. To discriminate in hiring, upgrading or discharging employees because of race, creed, color, national origin or ancestry.

2. To discriminate in compensation, terms, conditions or privileges of employment, because of race, creed, color, national origin or ancestry.

3. To ask questions before employment which, directly or indirectly, disclose race, creed, color, national origin or ancestry.

4. To print or circulate any statement or advertisement which, directly or indirectly, expresses discrimination because of race, creed, color, national origin or ancestry.

5. To discriminate against any person because he has filed a complaint, testified, or otherwise opposed any act forbidden by the law against discrimination.

For a labor union: 1. To discriminate in any way against members or applicants for membership because of race, creed, color, national origin or ancestry.

2. To discriminate against employers or employees because of race, creed, color, national origin or ancestry.

For an employment agency: 1. To discriminate because of race, creed, color, national origin or ancestry, in registering or referring applicants for employment.

2. To ask questions before employment which, directly or indirectly, disclose race, creed, color, national origin or ancestry.

3. To make disclosure to employers of the race, creed, color, national origin or ancestry of applicants for employment.

4. To print or circulate any statement or advertisement which, directly or indirectly, expresses discrimination because of race, creed, color, national origin or ancestry.

5. To discriminate against any person because he has filed a complaint, testified or otherwise opposed any act forbidden by the law against discrimination.

For employees: To offer resistance to the employment of any individual because of his race, creed, color, national origin or ancestry.

For anyone to aid, incite, compel or attempt to aid, incite or compel the doing of any act forbidden by the law against discrimination.

The State agency that administers the law

The administration of the law is under the Division Against Discrimination of the State Department of Education, whose offices are at 1000 Broad Street, Newark 2, N. J.

Enforcement of the law

Complaints charging unlawful employment practices must be verified by affidavit. When received by the Division Against Discrimination, such complaints are screened and investigated. Every effort is made to settle all complaints by conference, conciliation and persuasion, as the law directs. If this procedure fails, a hearing is held and, if the evidence warrants, an order is made to carry out the law.

The penalty specified in the law

Willful interference with the division in the performance of its duty under the law, or willful violation of an order of the Commissioner, constitutes a misdemeanor, and is punishable by imprisonment for not more than 1 year or by fine of not more than \$500, or by both.

For information and assistance

Apply to the Division Against Discrimination, 1000 Broad Street, Newark 2, N. J., telephone: Mitchell 2-7962.

NOTE.—This primer is issued as a generally informative, and not as a legalistic, summary of the New Jersey "Law against discrimination." For exact provisions of the law, see Public Law 1945, chapter 100.

"Wherever we erect barriers on the grounds of race and religion, or of occupational or professional status, we hamper the fullest expansion of our economic society. Intolerance is poor economy. Prejudice doesn't pay. Discrimination is destructive."—ERIC A. JOHNSON, former President, United States Chamber of Commerce.

DEDICATION

"Somewhere in this plot of ground there may lie the man who could have discovered the cure for cancer. Under one of these Christian crosses, or beneath a Jewish Star of David, there may rest now a man who was destined to be a great prophet. * * *

"Here lie officers and men, Negroes and whites, rich men and poor. * * * Here are Protestants, Catholics and Jews. * * * Here no man prefers another because of his faith or despises him because of his color. Here there are no quotas of how many from each group are admitted or allowed. There is the highest and purest democracy.

"Any man among us, the living who * * * lifts his hand in hate against a brother, or thinks himself superior to those who happen to be in the minority, makes of this ceremony and of the bloody sacrifice it commemorates, an empty, hollow mockery * * *."—FROM A CHAPLAIN at the dedication of a Division cemetery at Iwo Jima.

The opportunity to obtain employment without discrimination because of race, creed, color, national origin or ancestry is recognized as and declared to be a civil right (Sec. 4, New Jersey Law against discrimination).

New Jersey Council Against Discrimination: Dr. Robert C. Clothier, chairman; H. B. Bell; James Kerney, Jr.; Louis P. Marcilante; Jacob Stern; Herbert H. Tate; J. Margaret Warner.

Administrative officers: John H. Rosshart, Commissioner of Education; Joseph L. Bustard, Assistant Commissioner of Education.

COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE DEPARTMENT, FAIR EMPLOYMENT PRACTICE COMMISSION

The fair employment practice law (ch. 308 of the acts of 1948) guarantees that no person shall be denied the right to work because of race, color, religious creed, national origin, or ancestry. This law, however, does not restrict an employer, a labor organization, or an employment agency from establishing bona fide occupational qualifications. The law does require that the same standards of qualification be applied equally to all persons.

The following are not covered by the act:

1. An employer with fewer than six persons in his employ.
2. A club exclusively social, or a fraternal, charitable, educational, or religious association or corporation which is not organized for private profit.
3. An individual employed by his parents, spouse, or child or in the domestic service of any person.

Definition

The term "employer" includes the Commonwealth and all political subdivisions, boards, departments, and commissions thereof.

It is an unlawful employment practice

For an employer—

1. To ask any questions before employment, answers to which directly or indirectly disclose the race, color, religious creed, national origin, or ancestry of the applicant.

2. To print or circulate any advertisement which directly or indirectly specifies any limitation because of race, color, religious creed, national origin, or ancestry of any prospective applicant for employment.

3. To discharge or refuse to hire any individual because of race, color, religious creed, national origin, or ancestry.

4. To act unfairly against any individual in matters relating to compensation, terms, conditions, or privileges of employment because of race, color, religious creed, national origin, or ancestry.

For a labor organization—

1. To exclude from full membership rights or to expel from membership any individual because of race, color, religious creed, national origin, or ancestry.

For an employment agency—

1. To ask questions before employment, answers to which directly or indirectly disclose the race, color, religious creed, national origin, or ancestry of any applicant for employment.

2. To make any statements to a prospective employer which disclose the race, color, religious creed, national origin, or ancestry of the prospective applicant for employment.

3. To print, circulate, advertise, or publish any statement which directly or indirectly expresses any limitation upon employment because of the race, color, religious creed, national origin, or ancestry of the prospective applicant.

For employees—

1. To offer resistance to the employment of any individual because of race, color, religious creed, national origin, or ancestry.

For anyone—

1. Whether a person, employer, labor organization, or employment agency: to discharge, refuse to employ, or expel any individual because he has opposed any practices forbidden by the fair employment practice law or has testified or assisted in any proceeding under that law.

2. Whether an employer or an employee or other person: to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under the fair employment practice law.

Penalty

Violation of any of the provisions of the fair employment practice law subjects the offender to both civil and criminal penalties.

Complaints

Complaints may be filed in person at, or mailed to the office of the Fair Employment Practice Commission, 41 Tremont Street, Boston, Mass.

Section 7 of the fair employment practice law requires every employer, employment agency, and labor union subject to its provisions to post this notice or a notice otherwise approved by the Fair Employment Practice Commission in a conspicuous place or places on their premises.

COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE DEPARTMENT, FAIR EMPLOYMENT PRACTICE COMMISSION

POLICIES

1

The fair employment practice law (ch. 86B of the acts of 1945) guarantees that no person shall be denied the right to work because of race, color, religious creed, national origin, or ancestry. This law, however, does not restrict an employer, a labor organization, or an employment agency from establishing

bona fide occupational qualifications. This law does not apply to an employer with less than six persons in his employ, nor to a club exclusively social, nor to a fraternal, charitable, educational or religious association or corporation which is not organized for private profit, nor to an individual employed by his parents, spouse, or child, or in the domestic service of any person.

2

Inquiries answers to which would directly or indirectly disclose a person's race, color, religious creed, national origin, or ancestry are designated as unlawful employment practices when such inquiries are made prior to employment unless based on a bona fide occupational qualification. No restriction is placed on inquiries made after employment provided this information obtained is not used for purposes of discrimination.

3

The law allows employment practices otherwise prohibited if based upon a bona fide occupational qualification. What constitutes a "bona fide occupational qualification" will be determined in each instance by the commission upon request and the submission of such data as the commission deems necessary.

4

The act defines "employment agency" as including any person ("person" includes any organization) undertaking to procure employment or opportunity to work. The law does not exclude any such person by reason of making no charge for such service.

5

The law requires that employment shall not be denied a person because of race, color, religious creed, national origin, or ancestry, and it also applies to and includes rehiring, reinstatement, and upgrading of employees.

6

For bonding companies

Bonding companies may in the application of an employee for the furnishing of a bond ask questions which are prohibited by the law and by these policies from being asked by an employer. Any information given in any such application prior to employment in answer to questions which could not be asked directly or indirectly by an employer of an applicant for employment should not be communicated directly or indirectly to the employer.

Any communication by the bonding company to the employer of any such information would be regarded by this commission as evidence of a violation of subdivision 5 of section 4 of the act which provides that it shall be an unlawful employment practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden by the act. It is suggested that the application of a prospective employee for a bond be prepared by or in the office of the bonding company and not prepared by or in the office of the employer.

7

Certificates of age of an applicant, when required to be furnished to an employer, should not contain information prohibited by the terms of the act nor by the provisions of these policies.

8

Under regulations 100 issued by the United States Treasury Department, provision is made for application for a Social Security number which must be filed with its local office within 7 days from the date that a person is employed. The form required by that Department contains questions which must be answered but are not permitted to be asked in an application for employment. Therefore, no employer should have the application for a Social Security number filled out until after the applicant has been accepted for employment. If any such appli-

ation for a Social Security number is made prior to actual employment, it may be considered by the Commission as evidence of a violation of the provisions of the act.

9

A. "Verified" as used in section 5 of the fair employment practice act means supported by oath of the complainant.

B. An "attorney," as used in section 5 of the fair employment act, means an attorney at law.

10

Who may file or issue complaints in certain instances

A. The words (see section 5) "Any person claiming to be aggrieved by an alleged unlawful employment practice" are interpreted to mean a person who claims that his legal right to work has been invaded, or who claims that he has suffered loss or injury by an unlawful employment practice. Such person may by himself or his attorney file a verified complaint in the following instances:

1. When he has been refused employment by an employer or employment agency because of his race, color, religious creed, national origin or ancestry; or when refusal was predicated upon answers to questions, whether direct or indirect, oral or written, (as on employment application blanks) which disclosed the same;

2. When he has been discharged or acted unfairly against by an employer in matters relating to compensation, terms, conditions or privileges of employment because of race, color, religious creed, national origin or ancestry;

3. When he has been excluded from full membership rights or expelled from membership by a labor organization because of race, color, religious creed, national origin, or ancestry.

B. The attorney general of the Commonwealth may file a complaint against a violator of the law in the instances outlined above under A.

C. The Commission may issue a complaint:

1. When it is made cognizant of any violation of the law as outlined above under A, or of any provision of the act.

2. When it is made cognizant of--

(a) the printing or circulating of any advertisement for help which directly or indirectly specifies any limitation because of race, color, religious creed, national origin or ancestry which comes within the scope of the law; or of

(b) any employment application blank which asks questions directly or indirectly regarding the race, color, religious creed, national origin, or ancestry of any applicant for employment unless based upon a bona fide occupational qualification.

D. Any employer may file a verified complaint:

1. When his employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of the law.

11

Practices which may or may not be followed

It shall be the policy of this Commission to regard as some evidence of an unlawful employment practice a disregard of the following suggestions:

Subject of inquiry	Lawful employment practices before hiring	Unlawful employment practices before hiring
Name	Requirement that an applicant for employment write or print his name on an application for employment. Inquiry into the maiden name of a married woman who is an applicant for employment. Inquiry as to whether or not the applicant for employment has ever been complained of, indicted for or convicted of a crime, and, if so, under what name.	Inquiry into the original name of an applicant for employment whose name has been changed by court proceedings or otherwise except in connection with criminal proceedings and except as otherwise permitted in these policies.
Address	Inquiry into the place of residence of an applicant for employment.	
Birthplace		Inquiry into the birthplace of an applicant for employment or birthplace of his parents, spouse, or other close relatives.

Subject of inquiry	Lawful employment practices before hiring	Unlawful employment practices before hiring
Age.....	Requirement that an applicant for employment state his age and submit proof thereof as indicated above under No. 7 of the policies.	Requirement that an applicant for employment produce a birth or baptismal certificate.
Religion	Inquiry into whether an applicant for employment regularly attends a house of religious worship. An applicant for employment may be told: "This is a 5-day-a-week job and employees are required to work Monday through Saturday, inclusive, as a general rule."	Inquiry into the religious denomination of an applicant for employment; his religious affiliations, his church, parish, pastor, or religious holidays observed. An applicant for employment may not be told: "This is a Catholic, Protestant, or Jewish organization." An applicant for employment may not be told: "Employees are required to work on Rosh Hashana, Yom Kippur, and Good Friday."
Race or color		Inquiry into the race of an applicant for employment.
Citizenship	Requirement that an applicant for employment state whether or not he is a citizen of the United States and if not, whether he intends to become a citizen of the United States. Requirement that an applicant for employment state whether he has ever been informed or arrested as an enemy alien.	Requirement that an applicant for employment annex a photograph. Inquiry: whether an applicant for employment is a naturalized or native-born citizen; the date when applicant acquired citizenship; whether the applicant's parents or spouse are naturalized or native-born citizens of the United States; the date when such parents or spouse acquired citizenship.
Lineage		Requirement that an applicant for employment produce his naturalization papers or first papers.
Education	Inquiry into the academic, vocational, or professional education of an applicant for employment.	Inquiry into the lineage of an applicant for employment, his ancestry or national origin.
Experience	Inquiry into the work experience of an applicant for employment.	
Character	Inquiry into the character of an applicant for employment.	
Relatives	Inquiry into the location in the United States of places of business of relatives of an applicant for employment	Inquiry into the location outside of the United States of places of business of relatives of an applicant for employment.
		Inquiry into the place of residence of the parents, spouse, or other close relatives of an applicant for employment.
		Inquiry into the maiden name of the wife of a male applicant for employment and/or inquiry into the maiden name of the mother of a male or female applicant for employment.
Military experience.....	Inquiry into the name, address, and relationship of persons who are to be notified "in case of accident." Inquiry into the military experience of an applicant for employment in the armed forces of the United States or State militia.	Inquiry into the foreign military experience of an applicant for employment. Requiring before employment exhibition of a discharge from military service.
		Inquiry into the whereabouts of an applicant for employment during the First World War, i. e., during the period from 1914 to 1918.
Organizations	Inquiry into the organizations of which an applicant for employment is a member if it excludes organizations the name or character of which indicates the religion, race, or national origin of its members. Inquiry into whether an applicant for employment is a member of an organization which advocates the overthrow of the United States Government.	Inquiry into the organizations of which an applicant for employment is a member the name or character of which indicates the religion, race, or national origin of its members.

Senator DONNELL. Congressman, I won't take your time if you don't locate it readily.

Mr. RANKIN. It is in this speech.

Senator IVEA. I will say this: If such a charge has been leveled, it is a very serious charge, and I want to know about it.

Mr. RANKIN. I want to find it, because there are only three States that passed this law—New York, Massachusetts, and New Jersey.

Senator IVEA. With Connecticut and Indiana added.

Mr. RANKIN. I don't think so. I want to particularly call your attention to the end of the speech that I made on the so-called FEPC in Washington. One member from one of those States—I was under the impression it was New York, but it might have been Massachusetts—

Senator SMITH. I find what you quoted right on the first page, the second column:

A man from New York said to me this morning, "You know this measure is being operated in New York simply by failure to operate it."

Mr. RANKIN. That is right.

Senator DONNELL. Would he have any objection to the use of his name, Congressman?

Mr. RANKIN. I didn't give his name then. He didn't authorize me to do it, and I won't give it now.

Senator DONNELL. We are not asking you to violate any confidence, Congressman.

Mr. RANKIN. But I will ask you to do this. I get the same reaction from other Members—

Senator DONNELL. Other Members from New York?

Mr. RANKIN. Other Members from New York; and especially the Republican Members from New York.

Now, I told you awhile ago that the Negro depends for his happiness, his prosperity, and his protection on the peaceful relationship with the people among whom he lives. These agitators who are constantly bombarding for this bill, constantly bombarding us through PM and the Communist Daily Worker, have also gone down and started up race trouble all over the South. With what result? With the result that they have done the Negroes more injury than they could have done in any other way.

If this bill is passed—you can talk about enforcing it in the Southern States—but if this bill is passed you will simply intensify the race trouble that these agitators are stirring up down there, and that is now being rapidly transported to the Northern States.

I want to say to you, Senators, that with all deference to you gentlemen from the North, you are going to have a great deal more race trouble in the future than we are, and this legislation will intensify it.

Senator ELLENDER. Or than we have had in the past.

Mr. RANKIN. Or than we have had in the past. Let race trouble happen at home and what we do is rush to their defense and protect them.

Look at the riot in Detroit 2 or 3 years ago. They didn't kill 30 Negroes in that riot. They killed over 700.

A Negro from my county operated a band up there, I believe at Saginaw. Of all the natural musicians in the world the Negro leads

them all. This Negro had a band with 17 members in it. They were playing on Belle Isle the day that riot started. That riot was kicked up by the Communists, and when the whites got started they killed Negroes so fast that this Negro saw he was in danger and took his band and started home. He lived up-State, at Saginaw, I think. They got in a bus and when it pulled up in front of the hotel in Detroit the mob raided the bus and killed every single one of them. That Negro's father is a tenant farmer in my county now.

That could not have happened at home; and yet they have with all this agitation attempted to start race trouble, between the whites and blacks in the South.

Everyone with any sense at all knows those regulations were not written for the protection of the Negro. But you can take a Communist coming in here, such as we have exposed and are exposing now, and they can creep into a key position. The first thing you know we are likely to have a war. We don't know what will happen. I don't believe the decent American people will ever submit to communism. We know they have spies all over the country, just like the souvenir hunters who stole this technical data on the atomic bomb. That sounds puerile to me.

Do you want a spy at the elbow of every man who operates a business in America in case trouble starts? Under this bill here you would have the same trouble you had under the old FEPC.

Read the names and see who they are, who they put in charge of it, and who they put in charge of it in the States of Louisiana, New York, and Mississippi.

No, sir; you are playing with dynamite that will do this country more harm than good and do the Negroes more harm than anything else that could happen to them.

There are only four possible solutions of the race question: Deportation, extermination, amalgamation, and segregation.

That question has been debated ever since I have been in Congress. Deportation is out of the question. Extermination is too horrible to contemplate. Amalgamation is not going to happen, and the better element of the Negroes don't want it to happen. The only way they have ever got along with the white people over a long stretch of time has been in the Southern States through the segregation that we now have.

The Governor didn't understand one of the questions asked awhile ago, asking about the educational institutions. The Negroes of my town today go to school in better schoolhouses than I went to school in when I was a boy. We have a Negro university, Alcorn College, for their education. We have Negro high schools all over the State and we give them as good facilities as our financial ability will permit, and we get along with them and have less trouble than any other place I know of, and to pass a bill of this kind with its far reaching implications, in my opinion will not only stir trouble there but—

Senator SMITH. I want to get this straightened out, Congressman. Does your State spend the same amount of money per child on colored as on the whites in the educational field?

Mr. RANKIN. I don't think so. I am not familiar with that.

Senator SMITH. I am so eager to see the same opportunity given and I would like to ask if you would agree with me that everyone in this

country is entitled to the same opportunity to develop according to their opportunities. What do you suggest is the way to bring that about?

Mr. RANKIN. Senator, I will tell you what I would rather do. I would rather risk the people of my State who have this proposition to deal with, who know the Negro's weaknesses expressed by Abe Lincoln here, who know his shortcomings.

You send a Negro to the penitentiary for a crime that we would probably give him a fine of \$10 for. We know his weaknesses and we know you have got to allow for them. We have taken care of him in the very best way that we know how and no State in this Union would do better than Mississippi, Louisiana, Alabama, Georgia, the Carolinas, and Virginia, and the other Southern States.

We have as one of our citizens a former Republican Governor of Nebraska. We elected him to the legislature on a Democratic ticket. Of course, we would probably elect you to the legislature on a Democratic ticket.

Senator Ives. Do you think I could get elected there?

Mr. RANKIN. On the Democratic ticket; yes, if you would keep quiet. You couldn't do it agitating a thing like this.

But we have had men to come there from all over the country and we don't get this complaint from people who know. We get it from the agitators who don't give a finker's dam about the Negro, and I am not saying that with reference to any of you Senators, sir.

We get this criticism as a rule from people who are down there to stir up trouble.

Let me show you what happened the other day. There was a drunken Negro got on a bus in South Carolina—I will use the other fellow's State first—and raised so much sand the bus driver couldn't do anything with him and the passengers were all afraid of him. The bus driver stopped at a little town and asked for the police. The chief of police came and couldn't quiet him, so he arrested him and started to jail with him. The Negro tried to take his club away from him, and the policeman hit him over the head with it and it happened to blind him.

PM and the other Communist newspapers wrote all kinds of lies about what happened. Orson Welles took him to California and put on a radio show and got the administration so excited that they indicted this policeman in the Federal court, which they had no right to do, and the jury was out less than 1 minute and turned him loose. Yet they smeared the State of South Carolina from one end of the country to the other.

The quietest place in Mississippi I know of is a place called Magee where our tuberculosis sanatorium is located, where the patients are given the rest cure or treatment. A Negro who lived there got to shooting at people passing along the highway. The officers went to see about it and he shot them. Then the officers surrounded the place. This Negro ran out the back door and down through the swamp and it was published all over the country that they were trying to lynch a Negro down in Mississippi. Not a word of truth in it. They found this Negro and the others who were in the house with him had several Army guns, and so far the Department of Justice has not told my Governor, who just testified, where those guns came from.

The same thing or almost the same thing happened at Athens, Ala., and Columbia, Tenn. That is the Communist technique.

One reason I keep harping on the Communist activities is because I am on the Committee on Un-American Activities and I know one of the main programs of the Communists is to stir up race trouble in the Southern States. They have a map showing that they propose to make the Southern States into a Negro Soviet. We have their map on file.

This agitation to stir up race trouble is simply doing infinitely more harm than good.

The businessmen of New York, the businessmen of Missouri, the businessmen of Louisiana, and the businessmen of Mississippi give employment as best they can to the people who live among them and for us to come here and set up a gestapo of this kind with the unlimited powers which the Senator from Missouri has pointed out, would be, in my opinion, one of the most dangerous steps we could possibly take. I say that with all deference to the Senator from New York.

I think you are going in the wrong direction and I hope the bill will be rejected, and I am sure it will be when it reaches the floor of the House.

Now, I shall be glad to answer any questions.

Senator DONNELL. Are there any other questions, gentlemen?

(No response.)

Senator DONNELL. Congressman Rankin, we are thankful for your views and thank you for coming here.

Is Mr. Dossett here?

Senator ELLENDER. Mr. Chairman, yesterday afternoon Mr. Dossett called on me and stated that he had to return to Tennessee and that he had left a statement with the next witness, Dr. Hutcheson, and Dr. Hutcheson would present it to the committee for incorporation in the record.

Senator DONNELL. Dr. Hutcheson, will you step forward, please?

STATEMENT OF DR. R. H. HUTCHESON, STATE COMMISSIONER OF HEALTH, NASHVILLE, TENN.

Senator DONNELL. Doctor, before you start your testimony I am going to tell you this: Under the law this committee has no power to sit while the Senate is in session. Consequently, promptly at 12 o'clock noon when the Senate goes in session this committee will be in recess for a short time. I should have said it has no power to sit unless permission is given. I do not want you to be frightened when you suddenly find that the committee is in recess.

Doctor, will you please state your name?

Dr. HUTCHESON. R. H. Hutcheson.

Senator DONNELL. Doctor, where do you live?

Dr. HUTCHESON. I live in Franklin, Tenn.

Senator DONNELL. What is your profession?

Dr. HUTCHESON. I am a doctor of medicine and at present am engaged in the public-health field as commissioner of the State Department of Public Health of Tennessee. As such, I am a member of the Governor's cabinet.

Senator DONNELL. Doctor, I will ask you some questions about yourself a little later. I understand that you are presenting the statement filed by Mr. Burgin E. Dossett, commissioner of education of the State of Tennessee.

Dr. HUTCHESON. I have handed the statement to the reporter and would like to have it made, if it is permissible, a part of the record.

Senator DONNELL. Before it is filed I will ask you to state briefly what you know of the background of Mr. Dossett himself and what his qualifications are.

Dr. HUTCHESON. Mr. Dossett is in the field of education. Prior to coming to Nashville—he is living in Nashville now—he lived in Tennessee not far from Knoxville. I can't recall the name of the county right now. He is commissioner of education of the Department of Education of the State of Tennessee.

Senator DONNELL. Appointed by the Governor?

Dr. HUTCHESON. Appointed by the Governor and a member of the Governor's cabinet. He is chairman of the board of education and, as such, of course, has charge of all the educational facilities in the State.

Senator DONNELL. Very well. The statement will be received. I observe attached to the copy of his statement what appears to be a table and possibly some other exhibits. I assume you are filing the table also to go into the record?

Dr. HUTCHESON. That is correct, sir.

Senator DONNELL. Very well. The statement and table are received for the record.

(Mr. Dossett's brief is as follows:)

BRIEF ON EDUCATIONAL PROVISIONS AND OPPORTUNITIES IN TENNESSEE BY BURGIN E. DOSSETT, COMMISSIONER OF EDUCATION, STATE OF TENNESSEE

As a result of the statesmanship of Gov. Jim McCord and the Seventy-fifth General Assembly, Tennessee is greatly increasing its effort to provide expanded opportunities for all phases of the educational program and for all citizens of the State. The State appropriation for the regular elementary and high school program was increased from \$13,567,270 in 1940-47 to \$25,527,032 in 1947-48 and the appropriation for vocational education was increased from \$476,000 to \$1,000,000. A similar increase was made in the appropriation for higher education. In 1946-47 the amount of \$2,871,003 was appropriated and the amount of \$4,773,021 has been provided for the year 1947-48.

The State program of public education in Tennessee makes no distinction between whites and Negroes in providing educational opportunities.

A. GENERAL SCHOOL PROGRAM

1. According to the 1940 census 82.5 percent of the population in Tennessee was white and 17.4 percent Negro. The educational census report for 1946 revealed that of the population 6 to 18 years of age 84.6 percent was white and 15.4 percent Negro. In 1944-45, 84.8 percent of the total elementary and high school teaching positions was white and 15.4 was Negro.

2. In every county, city, and special school district in the entire State white teachers and Negro teachers in grades 1 to 12 are on the same uniform State salary schedule. (See attached State salary schedule.) Whether the teacher is Negro or white his salary under the single uniform State salary schedule is determined entirely upon the number of years of high school and college training he has had and the number of years of educational experience. In 1945-46 the average monthly salary for women teachers in the county schools was: White women, \$114.05; Negro women, \$120.53.

These facts indicate that more is spent per Negro child for teachers' salaries than is spent per white child. This may be explained by the fact that the Negro teachers as a group have more training. (See item 8 below.)

(Note.—The reason that women teachers in county schools were selected as a basis for comparison is that many cities have not operated under the State salary schedule while practically all counties have been under this schedule. It is also true that relatively few men have been employed in the elementary schools and the statistics reported by local units do not give one salary for Negro teachers and for white teachers. Prior to 1947 the high schools have not operated under a uniform State salary schedule.)

3. Uniform and concerted effort is being exerted in the training of both white and Negro teachers. The facts relative to the training of the teachers employed speak for themselves.

Training of women teachers employed during 1945-46 in the county elementary schools of Tennessee:

Amount of training	Percent of white women	Percent of Negro women
5 years or more.....	0.6	0.1
College graduate.....	15.6	22.3
3 years of college.....	11.3	14.6
2 years of college.....	34.7	46.6
1 year of college.....	10.4	8.8
High-school graduate.....	23.6	6.9
Less than high-school graduate.....	3.7	0.6

4. Under the State law all schools, both white and Negro, have been required to be in session for at least 8 months. For 1945-46 the average length of school term in the county school systems was:

Type of school:	Average length in days of school term
White	159
Negro	159

Beginning with the 1947-48 school year all schools, white and Negro, county and city, must be in session at least 9 months.

5. Under the State program, supervision of instruction for the Negro schools has been provided in the various county school systems, either through the employment of a Jeanes teacher where the Negro population justified such a position or through a white elementary supervisor.

6. There can be no distinction in the teacher-pupil ratio between white and Negro schools in the counties and cities which participate in State equalizing funds. The ratio must be applied to the individual school for State funds to be received.

7. Under the program in 1947, funds for the operation and maintenance of school buildings apply equally to all schools in a county or city school system which participates in State equalizing funds. Under the provisions of the law each school must meet the minimum requirements for an approved school if the county or city is to receive State funds for such school.

8. Under the recently enacted legislation each county and city which participates in State equalizing funds must submit a plan for the purchase and use of instructional materials and for health education. These plans are to be analyzed by State officials to determine whether equitable programs are being developed.

9. All teachers regardless of race are eligible to participate in the State teachers' retirement plan. According to the executive secretary of the State teachers' retirement board, a slightly higher percentage of the Negro teachers than white teachers are members of the retirement system.

10. If a county or city board of education elects to participate in the State plan for sick leave all teachers in such county or city system must be included.

11. The State of Tennessee has taken a number of forward steps in the development of its program of higher education. The General Assembly of

Tennessee in 1941 enacted a law which authorized and directed "the State board of education and the commissioner of education * * * to provide educational training and instruction for Negro citizens of Tennessee equivalent to that provided at the University of Tennessee by the State of Tennessee for white citizens of Tennessee." Pursuant to this act the State board of education and the commissioner of education have reorganized the Tennessee Agricultural and Industrial State College in order to realize the intent of the legislature. The appropriation for this institution was increased 68.5 percent by the general assembly in 1947.

B. VOCATIONAL EDUCATION

Opportunities for training in the preparation and advancement in occupational employment are offered without reference to race.

1. There is but one set of standards for teacher qualification.
2. The contract between the State board of vocational education and local boards of education is the same for all teachers and reimbursement made by the State to local boards for aid on the salaries of teachers is made without reference to race.
3. The yearly term of service of teachers in each part of vocational education is uniform, e. g., all teachers of vocational agriculture are employed for 12 months.
4. The amount of funds required of local boards for maintenance and instructional equipment is uniform, e. g., in vocational agriculture \$100 is required for maintenance and \$250 for laboratory and shop equipment and in home economics \$2 per pupil is required for maintenance and \$25 for reference materials.
5. The training time required is the same regardless of white or Negro classes, e. g., in vocational agriculture a minimum of 7 hours per week is required of all students.
6. The number of vocational education programs for both white and Negro approximates the percentage ratio that each race bears to the total population.
 - (a) Nineteen and three-tenths percent of the vocational agriculture departments are for Negroes with a like percentage of Negro teachers of the total number.
 - (b) In home economics there were 201 white departments and 40 Negro departments in the high schools, the latter figure being 16.6 percent of the total.
 - (c) In industrial education, of the 200 teachers 50 are Negroes, which number represents 25 percent of the total.
7. In the amount of donable training equipment received from Cincinnati ordinance district about 25 percent was distributed to Negro training programs.
8. In extension class training provided for adult employed persons, provision is made on the same basis for all groups. For example:
 - (a) In the year 1946-47, 203 evening classes were held in vocational agriculture with 53, or 26 percent conducted for Negroes. Total enrollment in these classes was 5,035 of which 1,418 or 24 percent were Negroes.
 - (b) In home economics 24 percent of the total enrollment of 6,745 were Negroes who received training.
 - (c) In distributive education 12 percent of the total enrollees receiving training were Negroes, which percentage is greater than the ratio of the total number of Negro business employees to the total business employment.
 - (d) Enrollment of Negroes in all-day classes in trade and industrial education was 22.8 percent of the total.

C. VETERANS EDUCATION IN TRADE SCHOOLS AND TRAINING ON THE JOB IN ESTABLISHMENTS

In setting up institutional and trade schools and on-the-job training establishments, apprenticeship or otherwise, the State of Tennessee applies the same policies to white and Negro veterans. Of the new schools being established in Tennessee for institutional trade school training the Negroes will at the present time outnumber the white veterans. In the programs set up for on-the-job training in the various establishments the Negroes will average the same in proportion as were taken into the armed forces.

Tennessee State salary schedule for teachers and principals in the public schools, grades 1 through 12

Salary classification	Training	Years of teaching experience										
		Less than 1 year	1 year	2 years	3 years	4 years	5 years	6 years	7 years	8 years	9 years	10 or more years
4-A	A teacher who has completed the required graduate study ¹ and holds an earned doctor of philosophy degree.	225	228	231	234	237	240	243	246	249	252	255
3-A	A teacher who has completed 1 year of graduate study, ¹ and holds an earned master's degree, plus 45 additional quarter hours of credit.	210	213	216	219	222	225	228	231	234	237	240
2-A	A teacher who has completed 1 year of graduate study, ¹ and holds an earned master's degree.	195	198	201	204	207	210	213	216	219	222	225
A	A teacher who has completed a standard 4-year high-school course and holds a bachelor's degree from an approved 4-year college. ¹	170	173	176	179	182	185	188	191	194	.....	.....
B	A teacher who has completed a standard 4-year high-school course and has in addition not less than 135 quarter-hour credits in an approved college. ¹	150	153	156	159	162	165	168	.....	.....	.....	.....
C	A teacher who has completed a standard 4-year high-school course and has in addition not less than 90 quarter-hour credits in an approved college. ¹	135	138	141	144	147	150	153	.....	.....	.....	.....
D	A teacher who has completed a standard 4-year high-school course and has in addition at least 45 quarter-hour credits in an approved college. ¹	120	122	124	126	128	130	.....	.....	.....	.....	.....
E	A teacher who has completed less than 45 quarter-hour credits in an approved college. ¹	115	117	119	121	123	125	.....	.....	.....	.....	.....

¹ In an institution approved for the training of teachers by the Tennessee State Board of Education.

Senator DONNELL. Dr. Hutcheson, going back to yourself, will you tell us where you were born?

Dr. HUTCHESON. I was born in Henning, Tenn., Lauderdale County, in about 1900.

Senator DONNELL. What was your education?

Dr. HUTCHESON. I was educated in the grammar schools of the community, the old Webb School at Bell Buckle, Tenn. I later transferred to another private school, Columbia Military Academy. At the University of Virginia I entered the School of Engineering and then some special courses in agriculture at the University of Tennessee.

I went into agricultural work and gave that up some 5 years later and entered the University of Tennessee School of Medicine. I finished that in 1930 and 2 years later went to Johns Hopkins over here for some special work.

Senator DONNELL. What did you specialize in?

Dr. HUTCHESON. Public health.

Senator DONNELL. Did you know Dr. Walter E. Dandee at Johns Hopkins?

Dr. HUTCHESON. That was before the time I went there. He was a brain surgeon.

Senator DONNELL. Then you came back to Tennessee after your schooling at Johns Hopkins. When did you do that?

Dr. HUTCHESON. I served my internship in the United States marine hospital and came back to Tennessee and went back again into the

same county, Williamson, as county health officer. I started in Murfreesboro as assistant health officer and in 1935 I went into the central office at Nashville, working with the Vanderbilt University School of Medicine and the health department, organized the department of public health, and a few months later took over as director of public health service and began the organization of local health service in Tennessee.

Senator DONNELL. How many counties are there in Tennessee?

Dr. HUTCHESON. Ninety-five.

Senator DONNELL. How many of those have you been in personally?

Dr. HUTCHESON. Every one of them.

Senator DONNELL. More than once in most cases?

Dr. HUTCHESON. I have been in practically all the civil districts.

Senator DONNELL. That is what we call in some States townships?

Dr. HUTCHESON. The same thing.

Senator DONNELL. So you have been in practically every township in Tennessee?

Dr. HUTCHESON. I think I have been in all of them. Some of my friends say I could not have been.

Senator DONNELL. That is undoubtedly helpful experience.

Have you had occasion to be in sections of other Southern States of our country from time to time?

Dr. HUTCHESON. Yes; from time to time I have been on travel fellowships, one provided by Philanthropic Education, and I visited one or two Southern States on that, but they were more interested in the eastern and northern section and they gave me opportunity to see those.

Senator DONNELL. Very well, Doctor. Will you proceed with your testimony?

First I will ask you if you have read this bill, S. 984.

Dr. HUTCHESON. I would like to say that the statement of Commissioner Dossett gives what I believe to be conclusive evidence that there is absolutely, beyond any shadow of a doubt, no discrimination insofar as the colored race is concerned, in educational opportunity.

Senator DONNELL. In Tennessee?

Dr. HUTCHESON. In Tennessee; and I will say that I have worked in the colored schools of Tennessee and the white schools of Tennessee, and I have personally examined children in each, in large numbers, and I know that statement is true and, in some instances—I would say this in the rural area—the facilities are better for the Negro than they are for the white.

In two of the counties that I visited I know that to be true.

Senator DONNELL. The committee will be in recess for a few minutes. (Short recess.)

Senator DONNELL. The committee is in session again.

Dr. HUTCHESON, will you proceed?

Dr. HUTCHESON. I think unless there is some specific question about Mr. Dossett's report, it might go into the record without any further comment.

Senator DONNELL. It is so incorporated, Doctor.

Now, will you proceed with your statement?

Dr. HUTCHESON. I would like to say, Mr. Chairman, that my experience has been such that I am a bit out of my field here this morning. I have never had an opportunity and never been asked to testify before a

committee, and I came at the request of Gov. Jim McCord because he could not be present and he wanted someone to represent the State.

My experience, since 1920 particularly, I think has been sufficiently varied to give me what I consider an insight into the medical-social life and experience of all classes, and especially the Negro race of the South.

I am not in business now—I have been in the past—except that I am employing through official channels personnel to work, and I can't speak authoritatively for the so-called business interests of the State. I should like also for the record to show that I consider myself a friend of the Negro race. I have always felt that I was.

Since graduating from medical school I expect that approximately half, and probably 75 percent, of my medical experience has been with Negro people rather than the whites; and when one considers that our population in our State is 17.4—under 20 percent—colored, you can see I have devoted a proportionately larger amount of time to the colored people.

Senator ELLENDER. Why was that, Doctor? Did you practice in a community that was predominately colored?

Dr. HUTCHESON. It is necessarily because I think that part of our business is to educate as well as to treat, and I think we can get further by trying to get the colored race in our State of Tennessee to see and understand the need for improvement, and they will take it and go on when they do see it. I have found that to be true, and by demonstrating in the schools and in their local communities you can show them the advantages of good health, and then they themselves will seek it.

Without having it and without having a demonstration, it means nothing to them.

I don't know whether it is appropriate for me to go into this now or not, but we all are in a process of evolution, Dayton, Tenn., to the contrary notwithstanding. That is where they had the monkey trial, you know.

Senator DONNELL. The Scopes case.

Dr. HUTCHESON. Yes. It takes generations to really accomplish some of the things. We must realize that the Negro race—a good part of it in our community there in Tennessee—was not too many years ago in the span of evolution, rather an inferior individual. Most of them were savages, one might say, that were brought over from the African Continent; and there is today in that race, and in the white people who have associated with them, a great amount of superstition, particularly in the medical field, and it takes a great deal of education to get that out; and while I don't expect to do it myself, I expect to start it, and I am doing it, and I can see some results; but I think it will take many, many years to accomplish final results, and I think we are spending as much as we can in that line.

In the public welfare work, and I am personally responsible for all the employees in the department—a department employing primarily technically trained personnel—in instances where we feel the Negro can do the job that is to be done as well as a white physician, preference is given to him, and we discriminate in his favor.

Now, it may be surprising to some to know that we have a great deal of difficulty frequently in finding them. He is not interested

as a rule in assuming the responsibility at the pay that we are able to give him, and the pay is the same whether he is white or colored.

We have approximately 3,000 white physicians in Tennessee, and I called the secretary of the Volunteer State Medical Association just before coming up here, and he told me that he had 185 Negro physicians in his association.

Out of 115 physicians, 10 are colored and 105 are white. That is a good percentage of the Negro as compared to the white physicians in Tennessee.

Of nurses, we have a total of 259; 40 are colored, and 219 are white. Of nurses' aides we have a total of 17; 5 colored and 12 white.

Of dentists we have a total of eight, of whom one is colored and seven are white.

Job descriptions, class specifications, and compensation are the same regardless of color. The over-all percentage of colored personnel employed is approximately 10 percent.

It is my feeling that those in favor of S. 984 possibly are going to feel that my attitude being what it is, then I should be for the bill. Well, I can't honestly say that I am.

My reasons are these: I feel that those who favor this bill actually do not know what the situation is, and I think they know very little about mass psychology, particularly of the white and colored people living in the South. I think I have some understanding of it; and slowly, with the aid of a large number of interested southern friends, but largely by and through the efforts of their own leaders, Negro leaders, progress is being made. This progress will continue unless their less-well-informed white well-wishers attempt to force the issue and by doing so negate gains that have been made.

Since I am permitted to say this, I might say that I listened to Mr. Rankin. I have a feeling that he got pretty close to some of the real reasons back of why we down there object to this bill, and I have a feeling, too, that he knows what he is talking about.

But, further, I have a feeling that he speaks so emphatically on it that possibly people don't pay as much attention to him as they should. I never heard him before, and I never saw him before. I have seen much of what he has said in the newspapers, of course.

To understand the soundness of the reasons I have given, one must understand the reasoning of the people in what is called the North. What we are actually talking about is the United States, or that part of it that has in the past had very few Negroes in residence, and we must also examine the attitude of those of us in the so-called south section, where a great many of us have lived, and it is my feeling that this attitude is as different and as far apart as the North Pole is from the South Pole.

Contrary to general opinion, I think that we in what I describe as the South have a very much fonder feeling for the Negro than is generally thought. I know I do, and I know my entire family does. I know pretty much the area of west Tennessee, where most of the Negroes live, and I know it is true there, and the reason we do like them is because we know them.

But we also know the Negro's limitations; and as a race he does have them, and he has them as an individual. We know that some of them have done outstanding work, and we appreciate what they have done and we encourage the Negro in doing more.

But knowing his limitations, we know that collectively he needs time to raise his race intelligence level up to that—as low as it is—of his white cousins. And some of my white friends may criticize me for it, but I say the average is not too high.

In the North there has been too much talk of the equality of opportunity, speaking of the race as a whole, with very little regard to the individual; and if I were permitted to do it I could tell you a story of a very successful farmer who lived on our place in west Tennessee. He decided sometime along about 1923, I think it was, that he was going to Detroit, and he did go there, and he did exceedingly well until the depression got started. And when the depression got started he came back immediately, and he told me that he was very happy there as long as things were going all right; but when things got tight they called him "Mister" and let him starve, and he came back down there to get something to eat.

The statement is made in the bill that present conditions foment unrest of a minority group. I agree that there has been some unrest, and I agree that present conditions are responsible, but it is not a practice of discriminating in employment against properly qualified persons but instead agitation designed to create unrest, such as Mr. Rankin described awhile ago.

Speaking only for myself personally, and as one with some knowledge of biology, there is no such thing as two people being equal in all respects. While I do have the utmost respect for all statements made in our Constitution, there is no such thing as two people, white or colored, or white and colored, who are equal, and there never will be.

I was riding over the farm of my father one day, and he was with me, and we were discussing the same thing; and I was talking about doing more for the colored race, and he told me this: "Son, I hope you will do everything you can; but do you see that bull out there in the pasture?" And I said, "Yes, sir." And he said, "What kind is he?" And I said, "A white-faced heifer." And he said, "Do you know why his face is white?" And I said, "No; I don't." And he said, "Because his pappy had one."

There is within each of us the result of thousands and thousands of years heredity, and no attractive phrase, whether in the Constitution or designed now for some other purpose, can change that fact, and no law that this Nation through its Congress can pass can change it.

Gentlemen, I should like to tell you that until 75 or 80 percent of the people of an area, in my State of Tennessee particularly—and I think it applies pretty generally throughout the South and throughout the rest of the country—are ready for a bill, it cannot be enforced in the spirit. You can enforce it with armed force if necessary, but unless it can be enforced with the good wishes of the majority it will serve to retard social gains of the minority, and I think we of the South are not ready for this bill.

Senator DONNELL. Senator Ellender, do you have any questions you care to ask?

Senator ELLENDER. No questions.

Senator DONNELL. We are thankful for your giving us the benefit of your views and also giving us for the record this statement of Mr. Dossett.

(Dr. Hutcheson submitted the following brief:)

I, Dr. R. H. Hutcheson, am speaking officially as commissioner of the Tennessee Department of Public Health and for myself individually.

My experience since 1920 has been sufficiently varied to give me what I consider an insight into the medical-social life and experience of all classes, and especially the Negro race of the South.

I should like the record to show that I consider myself a friend of the colored people. Since graduation from medical school I am sure that approximately one-half of my work has been with the Negro. I try never to miss a possible opportunity to improve his chance for social improvement.

As director of the Tennessee Department of Public Health I am personally responsible for final approval of all employees in the department, a department employing primarily technically trained personnel. In instances where we feel that a Negro physician could do the job to be done, every effort is made to employ the Negro instead of the white physician. I make this statement with the full realization that it violates the conditions of S. 984, in that we are literally discriminating against the white physician. We have in Tennessee approximately 3,000 white physicians. We have about 185 negro physicians; yet in the health department, out of a total of 115 physicians employed, 10 are colored and 105 are white. Of nurses, we have a total of 260; 40 are colored, and 219 are white. Of nurses' aides, we have a total of 17; 5 are colored, and 12 are white. Of dentists, we have a total of 8, of which 1 is colored and 7 are white.

Job descriptions, class specifications, and compensation is the same, regardless of color. The over-all percentage of colored personnel employed is approximately 10 percent plus.

Those in favor of S. 984 probably will say—your attitude being what it is—why do you object to the bill? My reason is simply this: Those who favor the bill either do not know anything of mass psychology in the South or are not interested in the welfare of the Negro. Slowly, with the aid of a large number of interested southern friends but largely by and through the efforts of their own leaders, progress is being made. This progress will continue unless their less-well-informed white well-wishers attempt to force the issue and by so doing negate gains that have been made.

To understand the soundness of this reasoning one must examine the attitude of the people in what is usually called the North (actually the area of the United States that has in the past had very few Negroes in residence) and the attitude of those of us in the so-called South. That attitude is as different as the two poles, and in very few instances is the basic fact understood by either. In the South, contrary to general opinion, we, as a rule, like—actually I should say we are quite fond of, and in many instances love—the individual Negro. We know him, and know his limitations, and therefore as a race we know that collectively he needs time to raise the race intelligence level to that—as low as it is—of his white cousin. In the North there has been too much talk of equality of opportunity for the race as a whole, with no regard for the individual.

The statement is made in this bill that present conditions foment unrest of the minority group. I agree that there has been some unrest, and I agree that present conditions are responsible, but it is not a practice of discriminating in employment against properly qualified persons but instead agitation designed to create unrest.

Speaking only for myself personally and as one with some knowledge of biology—there is no such thing as two people equal in all respects.

There is within each of us the results of the summation of thousands of years of heredity, which, when combined with our environment, made us what we are, and attractive phrases cannot change this fact.

Gentlemen, I should like to tell you that until 75 to 80 percent of the people in an area are ready for a bill it cannot be enforced in spirit, and unless this bill can be enforced with the good wishes of the majority it will serve to retard social gains of the minority. We in the South are not ready for this bill.

Senator DONNELL. The committee will be in recess until 12 noon tomorrow.

(Whereupon, at 12:25 p. m., the committee adjourned until noon, Friday, July 18, 1947.)

ANTIDISCRIMINATION IN EMPLOYMENT

FRIDAY, JULY 18, 1947

UNITED STATES SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
SUBCOMMITTEE ON ANTIDISCRIMINATION,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 12 noon, in the committee room, Committee on Labor and Public Welfare, Capitol Building, Senator Forrest C. Donnell presiding.

Present: Senators Donnell (presiding), Smith, and Ellender.

Senator DONNELL. The committee will be in order.

We will hear from Mr. Tyre Taylor, general counsel, Southern States Industrial Council, Washington, D. C.

STATEMENT OF TYRE TAYLOR, GENERAL COUNSEL, SOUTHERN STATES INDUSTRIAL COUNCIL, WASHINGTON, D. C.

Mr. TAYLOR. Mr. Chairman, my name is Tyre Taylor, general counsel, Southern States Industrial Council, Washington, D. C.

I was born June 4, 1898, at Laurel Springs, N. C., on a farm. My father's farm adjoined Uncle Bob Doughton's farm.

My high-school training was received at Glade Valley High School, a Presbyterian school.

I attended the University of North Carolina for undergraduate work and obtained my master's degree and went to the Harvard Law School.

Senator DONNELL. What did you specialize in at the University of North Carolina?

Mr. TAYLOR. Taxation, Senator; State, real property taxation in North Carolina.

Senator DONNELL. At Harvard you took your law course and received a degree of LL. B.?

Mr. TAYLOR. No, sir; although I completed all my courses, I did not receive the degree. I attended 2 years, and my money ran out, and they would not permit me to receive it.

Senator DONNELL. Did you study constitutional law?

Mr. TAYLOR. Not at Harvard, but I did at the University of North Carolina.

Senator DONNELL. Was it the constitutional law of the United States or comparative constitutional law of other nations?

Mr. TAYLOR. Of the United States.

Senator DONNELL. Had you finished with your qualifications?

Mr. TAYLOR. Not quite. I was admitted to practice in 1926.

Senator DONNELL. In North Carolina?

Mr. TAYLOR. Yes. I entered the private practice of law in Charlotte, N. C., and was there 2 years, 1927 to 1929.

I was the secretary and executive counsel to the late Max Gardner, while he was Governor of North Carolina. As executive counsel I had charge of all parole and clemency matters.

Senator DONNELL. And extradition matters?

Mr. TAYLOR. And extradition matters. I was on the Washington legal staff of the RFC from 1932 to 1937, working on bank recapitalization and bank reorganizations for banks in the South. The first part of that period and during the latter part I was working under the chief of tax legislation.

I resigned in 1937. Thereafter I was assistant to the attorney general in charge of the Cherokee land reservation litigation in western North Carolina, a matter in litigation wherein some whites had come come in and squatted on the Indian reservation.

I was counsel to the House Small Business Committee in 1942 and 1943 for a special study of the wartime problems of southern industry.

We held nine hearings in the South and several hearings here in Washington.

I am general counsel for the Southern States Industrial Council, Washington, D. C., an organization representing 16 Southern States. It represents manufacturers in all lines in the Southern States.

I might mention, Senator Donnell, that you undoubtedly know some of our directors in Missouri; for example, Mr. Howard I. Young and Mr. Grant Stauffer.

Senator DONNELL. In Kansas City?

Mr. TAYLOR. In Kansas City; yes, sir.

And you, Senator Ellender, I know must be acquainted with our directors in Louisiana, Mr. John U. Barr and Mr. C. C. Sheppard—

Senator ELLENDER. Yes.

Mr. TAYLOR. I have no further preliminary statement to make and will be glad to answer any questions.

Senator DONNELL. Have you in the course of your work examined into the industrial condition of both the white and colored workers in the southern part of the United States?

Mr. TAYLOR. I have not had occasion to go into that in any specialized detail, Senator. I have been all over the South. I have been in all the States and know a great many of the plants. I am in reasonably close touch with the whole situation down there.

Senator DONNELL. You have in the course of your experience known a great many colored people and have observed their contacts with white people in the section in which you have lived, I presume?

Mr. TAYLOR. Yes. One of the proudest things that I can recall about my public service was the fact that when I came to Washington some of the most beautiful recommendations and testimonials I had were from Negro leaders in North Carolina which came about as the result of the fact I had had that contact with all these prisoners. We had about 8,000 prisoners, and 60 percent were colored, but in the county where I was born I doubt if there were over 100 Negro families.

Senator ELLENDER. When you say 60 percent were colored, you mean for the entire State?

Mr. TAYLOR. Prison population.

Senator ELLENDER. You mean the penitentiary?

Mr. TAYLOR. For the entire State. The State prison system.

Senator ELLENDER. Did that include counties?

Mr. TAYLOR. Yes. We do not have what you call the county chain-gang system. It is a State system.

Senator ELLENDER. But the 8,000 prisoners you spoke of were incarcerated in the penitentiary?

Mr. TAYLOR. In the central State prison and various prison farms.

Senator ELLENDER. The central State prison and various prison farms?

Mr. TAYLOR. Yes, sir.

Senator ELLENDER. Did it include what we have in Louisiana—parish prisoners, county prisoners?

Mr. TAYLOR. No; we do not have any so-called county chain gangs. That was abolished 20 or 25 years ago.

Senator ELLENDER. What is the relative percentage of colored and white population in North Carolina? Do you know?

Mr. TAYLOR. I do not think it is over 30 percent colored.

Senator ELLENDER. Thirty percent?

Mr. TAYLOR. Colored. We do not have the high percentage of colored that we have further on down South.

Senator ELLENDER. How do you account for the fact that 60 percent of the prisoners were colored, although the entire population in North Carolina is only 30 percent colored?

Mr. TAYLOR. Well, I never was able to figure out any entirely satisfactory explanation of that, Senator. It is a fact, though.

Senator ELLENDER. The only reason I am asking is that you mentioned it. I had occasion to make some surveys myself in 1938 to show the difference in populations between colored and white prisoners.

In the District of Columbia, contrasted with New Orleans, I took 7 of the most heinous crimes in criminology: murder, rape, and 5 others; and although the population in the city of New Orleans was 38 percent colored, whereas in Washington it was 37 percent, and the total population of Washington at that time was about 40,000 more than New Orleans, for every white man in New Orleans who was incarcerated or tried for one of these 7 heinous crimes, there was 1 colored, but in Washington the proportion was 5½ colored to 1 white.

Mr. TAYLOR. I do not know.

Senator ELLENDER. I am a little surprised that the proportion of 60 percent colored in North Carolina with only a 30 percent colored total population should be so high.

Senator DONNELL. Proceed with your testimony.

Senator ELLENDER. May I say I do not know whether that is pertinent. You may strike it from the record if you wish.

Senator DONNELL. No; that is interesting and well worth while. It is interesting as a fact, and I think it should stay in the record unless the Senator desires it stricken.

Senator ELLENDER. Oh, no.

Senator DONNELL. You may proceed with your statement, Mr. Taylor.

Mr. TAYLOR. Before reciting our objections to S. 984, I should perhaps briefly discuss its coverage.

Unlike S. 101, which was introduced in the Seventy-ninth Congress, this bill does not apply to State and local governments, or to religious,

fraternal, educational, and other organizations, other than labor organizations, which are not organized for private profit.

Also exempted are employers of less than 50 persons.

All other employers, including the Federal Government, and including employers engaged in activities which "affect commerce" are covered. In the case of private employers of 50 or more persons, ultimate coverage may be expected to be coextensive with that of the National Labor Relations Act. Under that act, it has been held that an employer producing entirely for local consumption is nevertheless covered if some part of his raw materials come from outside the State (*N. L. R. B. v. Richter's Baking Company*, 140 Fed. (2d) 870 (C. A. A. 5th, 1944)).

But although this general assumption as to the scope of the pending bill's coverage would appear to be well-founded, such extension may be, from the standpoint of the individual employer, entirely unforeseeable. This is so because the extension is not brought about through any affirmative or specific act of Congress—other than the inclusion in the bill of the words "affecting commerce"—but through administrative determinations and court decisions. This in itself is a serious defect, but for the purpose of this discussion, I am assuming that practically all employers of more than 50 persons will eventually be held to be covered, and this irrespective of whether they are engaged in activities usually regarded as intrastate or local in nature.

The council's objections to the bill fall into three general categories:

1. Certain of its provisions are not believed to be in the public interest;
2. Certain of its provisions are unduly oppressive upon employers; and
3. We do not believe it will work.

Taking up these objections in the order named, we find, first, that this bill, if enacted into law, would facilitate sabotage and espionage in the event this country should get into another war—especially a war with any nation which has a large fifth column in this country. The bill applies to the United States Government and its instrumentalities and would make it unlawful to discriminate against any applicant because of his national origin. Thus the Atomic Energy Commission, for example, would be precluded from inquiring as to the nationality or place of birth of a job applicant, or whether he was a naturalized or native-born citizen of the United States.

There is serious question as to whether a job applicant may even be asked whether he is a citizen of the United States. Whether this interpretation will be upheld by the courts, however, remains to be seen.

Senator ELLENDER. Mr. Taylor, are you familiar with the situation in New York?

Mr. TAYLOR. Senator, I have tried to look into it a little bit; yes, sir.

Senator ELLENDER. Are you familiar with the rules and regulations that have been promulgated by the commission in New York?

Mr. TAYLOR. Yes; I have a copy of them here.

Senator ELLENDER. You have copies?

Mr. TAYLOR. I have one copy.

Senator ELLENDER. Are you willing to discuss them as you go along in your brief—the last part you spoke of?

Mr. TAYLOR. I am going on to private employers and I had not planned any discussion unless you wish to ask the questions, Senator.

Senator ELLENDER. Well, is it your view that these regulations are in compliance with the law of the State of New York?

Mr. TAYLOR. Yes; I think unquestionably they are.

Senator ELLENDER. In other words, you do not think the commission has overdone itself by the promulgation of such rules and regulations?

Mr. TAYLOR. No, sir; and the question came up here yesterday—I believe Mr. Rankin was speaking of this business of Congress by concurrent resolution overruling regulations of this type.

Senator ELLENDER. Yes.

Mr. TAYLOR. It is my opinion that under this bill as it now stands it would be unlawful to inquire as to the national origin—the place of birth—of the job applicant, and the fact is the commission, I think, would have to write that into their regulations to comply with the law.

Senator ELLENDER. In other words, should this bill become law, then the Commission appointed to administer it could promulgate the same kind of rules and regulations as had been issued by the State of New York?

Mr. TAYLOR. It would be required to, Senator, under the terms of the act.

A concurrent resolution would be no remedy. As I understand it, you cannot amend a law by concurrent resolution unless it is specifically provided in the law that it may be amended that way.

Senator ELLENDER. Did you hear Mr. Rankin testify yesterday?

Mr. TAYLOR. Yes, sir.

Senator ELLENDER. Is it your view that an employer could be prohibited under penalty of law to inquire into the citizenship of an applicant?

Mr. TAYLOR. What I say in the next paragraph covers that.

What has been said about the Government as an employer would likewise be true in the case of private industry, since it would be made illegal, prior to employment, to make inquiry into the national origin or ancestry of those applying for employment.

Senator ELLENDER. Should the bill be enacted, to what extent could the Commission itself inquire into these matters?

Mr. TAYLOR. I do not see, Senator, that it would be before the Commission to inquire into that except to the extent it went into the question of a charge of an unlawful employment practice.

Senator ELLENDER. So that the employer would be unprotected.

Mr. TAYLOR. He would be completely unprotected. In fact, it would be illegal for him to inquire into the very thing that goes right to the roots of the prospective employee's loyalty, whether to this country or to some other country.

Senator ELLENDER. During the course of his presentation of the matter yesterday, Mr. Rankin indicated that there was some way of circumventing the law by going through the employment agencies.

Did you hear him make that statement?

Mr. TAYLOR. I did, sir, and I would like to discuss that further on when I come to the compliance experience under the New York and New Jersey laws.

Senator ELLENDER. Very well.

Mr. TAYLOR. It could be that this is one of the reasons why S. 984 and its predecessor, S. 101, have had such ardent support from the Communists and all their front organizations. Of course, no other

nation in the world would for an instant consider extending such an invitation to sabotage.

In the second place—and still considering the bill from the broad standpoint of the public interest—this legislation, if enacted, would be profoundly divisive in its effect upon the population.

Paragraph 1 of section 3 would abolish all forms of segregation in every southern operation covered by the bill and, as we have already seen, this would include practically all. You have it on the word of such well-known friends of the Negro race as Mark Etheridge, Virginus Dabney, Ralph McGill, and John Temple Graves that this is not the way to advance racial tolerance and good feeling, but rather its exact opposite.

Senator DONNELL. Is that John Temple Graves, of Birmingham, Ala.?

Mr. TAYLOR. That is his son.

Senator DONNELL. The one now living?

Mr. TAYLOR. Yes.

Senator DONNELL. I do not think the father is still living. He is not?

Mr. TAYLOR. No. I say to you with all the earnestness at my command that any serious attempt to break down segregation in the South at this time will lead to trouble.

Senator ELLENDER. Mr. Taylor, you have just stated that in section 5 (a) (1) the segregation laws of the South would be dealt what you might term "a death blow."

We had an attorney from Louisiana in the person of Mr. Frank J. Looney, who testified that in his opinion that section would not permit it.

Mr. TAYLOR. This section would not apply to places other than places of employment.

Senator ELLENDER. I would like to inquire of the distinguished chairman if it was not his interpretation of the testimony given by Mr. Looney that section 5 (a) (1) would not give to the Commission power to break down segregation barriers that a State might have established either by custom or law.

Senator DONNELL. I understood him to take that general view and I think that the language used was rather general in the question of breaking down customs that had been built up over many years.

The interpretation I put on it, as I now recall, is that he had in mind that the provision of section 5 (2) (1) would not permit the placing into effect of regulations such as the Maryland situation requiring facilities to be used by both races.

Senator ELLENDER. That is what I gathered.

You seem to take the opposite view.

Mr. TAYLOR. It is perfectly clear, Senator Ellender, that the language in the third line of paragraph 1 "terms, conditions, or privileges of employment" covers the matter.

Senator DONNELL. Mr. Taylor, I think Mr. Looney's thought was there is no discrimination if there is equality of provision. That is to say, if certain facilities are provided for whites and certain facilities for the colored, of equal and identical type, there is no discrimination merely because the two races are not required to use the same facilities but required to use those of identical nature.

Senator ELLENDER. I might add that is what Mr. Looney had in mind. The Supreme Court has often held that was permissible, provided both races were given the same facilities.

Senator DONNELL. For instance, if I may interrupt the Senator, in forms of education where a university provides a law course, but there is no law course provided elsewhere for the Negro race, the Negro is permitted to enter into the course provided by the university. On the other hand, if there be a separate university for the colored giving a similar course in law, the colored are not permitted to enter into the white university under the decision of the Supreme Court.

Senator ELLENDER. That is correct, and I am sure that is what he had in mind.

Pursuing it from that standpoint, Mr. Taylor, do you still feel that under the language in section 5 (a) (1) the segregation barriers that have been established by law as well as by custom would be dealt a death blow, as it were, if this law were enacted as written?

Mr. TAYLOR. I definitely do, Senator, and here is the basic reason for that, or rather I would surmise this is the way the court would reason about it, that "privileges of employment" include, among other things, access at all times to an employee's immediate superior.

Take the lunchroom problem, for example, or the cafeteria. Under this bill as it is now there is no segregation, but it could very persuasively be argued, it seems to me, that it is a discrimination against an employee if you do not permit him to eat in the same room with his foreman or superintendent or the other coworkers; that it does not provide the same opportunity for association and advancement.

Senator ELLENDER. That was the interpretation presented by him, and as a matter of fact I was a wee bit disappointed when I heard Mr. Looney take a contrary view, but I can well see the reason why, or the basis for it, and that is as Senator Donnell pointed out that the same quality facilities would be offered to the respective races.

Mr. TAYLOR. If you would make it superior facilities for Negroes, I would still say the segregation would be broken down.

Senator DONNELL. I was very much interested in one point. I note you mention equal opportunity of access to superiors in employment.

Mr. TAYLOR. Yes.

Senator DONNELL. I am wondering if I correctly understand that point. Is this an illustration of what is in your mind? If an employee under the terms of section 5 (a) (1) would be entitled to the same privileges of employment, for instance if John Smith, a colored man, did not have the opportunity to eat in the same cafeteria at which the foreman eats, would John Smith have the right to inquire why?

Mr. TAYLOR. An opportunity to make a favorable impression.

Senator DONNELL. And you think the privileges of employment in order to comply with section 5 (a) (1) would require the colored boy be given the opportunity at all times, or the same opportunity everyone had to make a favorable impression on his superior, even though that might be in a cafeteria rather than where he operates his machine? Is that your point?

Mr. TAYLOR. Yes, sir.

Senator DONNELL. I was very much interested in that point and thank you for your comment.

Senator Ellender, do you wish to comment any further?

Senator ELLENDER. I simply wanted to comment as I did, because although the FEPC under Executive order was intended to equalize economic opportunity for both races, it was used to break down the barriers.

Mr. TAYLOR. Yes.

Senator ELLENDER. And I say this is the first step in that direction?

Mr. TAYLOR. Yes; I have no doubt about it. You are entirely right about it.

Senator ELLENDER. If such course should be pursued by the Commission I am sure you realize what would happen in the South if you attempt to administer it if it should become law. Can you not see a lot of disturbance down there?

Mr. TAYLOR. I come to that later on.

Senator ELLENDER. I am sorry I anticipated you.

Mr. TAYLOR. Nor is this situation limited to the South. California farmers, for example, while noted for their willingness to employ workers from all minority groups, have nevertheless usually found it necessary to confine their hiring to one group in order to avoid—or at least not aggravate—ill feeling among minorities. I am told that this was one of the factors which caused the voters of California to reject a so-called fair employment practices act (State proposition No. 11) last November.

Senator DONNELL. We have had quite a little mention of that action by the voters of California. Do you have exactly the proposition that was put before them?

Mr. TAYLOR. I do not have, Senator, but I would be glad to get it and supply the committee with it.

Senator DONNELL. Would you do that, please?

Mr. TAYLOR. Yes, sir.

Senator DONNELL. We would be glad to see what they voted on.

Mr. TAYLOR. I do not have the text at the present time.

Senator DONNELL. But you will furnish it to the committee?

Mr. TAYLOR. Yes, sir.

Senator DONNELL. Proceed.

Mr. TAYLOR. It was recognized that if farmers were compelled by law to put minorities with conflicting customs, creeds, and prejudices into the close proximity required for agricultural labor, friction, and even violence would result.

Today, hardly less than during the actual shooting war, the country needs unity and it needs production. It needs an end to this eternal accentuation and exacerbation of racial differences as such.

The bill in its present form would be unfair to employers in so many ways that I can do little more than list them within the time at my disposal.

In the first place, it largely eliminates managerial discretion in hiring, firing, and promoting employees. It prohibits discrimination against "properly qualified" persons. But who makes the final determination as to whether a person is "properly qualified" for employment or promotion in any particular business? It would be made by a Government agent. Exercise of the employer's judgment to select a group of individuals and build an organization which will work together as a team is outlawed when it conflicts with the judgment of a Federal commission.

Senator DONNELL. From what were you quoting when you used the term "properly qualified"?

Mr. TAYLOR. It is on page 1 of the bill under "Findings and declaration of policy."

As Donald Richberg observed at the time S. 101 was pending—and it is equally true of S. 984—"such a law would give to persons whose employment has never been invited or desired the right to claim that they are being unlawfully refused employment. There is no defined class of 'employees,' so that if an employer were considering hiring anyone from an office boy to a general manager; he would act at his peril in rejecting the application of a man who might claim that he has been discriminated against because of his race, religion, color, national origin, or ancestry."

Indeed, an employer with a job vacancy might be victimized by roving bands of professional job seekers whose sole purpose is to extort money by threats of filing charges of discrimination. Under this bill such persons need not be bona fide applicants for work.

Under paragraph 2 of section 5 the employer also acts at his peril in utilizing any employment agency, placement service, training school or center, or labor union without first making certain that such agency does not itself discriminate because of race, religion, color, national origin or ancestry.

Senator DONNELL. Right at that point, are you going to comment on Mr. Rankin's testimony to get around the New York law by going through an employment agency?

Mr. TAYLOR. Yes, sir.

Senator DONNELL. Would you tell us what your comment is?

Mr. TAYLOR. Yes, sir.

Mr. ELLENDER. I understand he has it written. I asked that same question.

Senator DONNELL. Oh, you have it written?

Mr. TAYLOR. Yes, sir.

Senator DONNELL. All right, go ahead.

Mr. TAYLOR. By definition, the New York law excludes any individual employed by his parents, spouse, or child. No such exemption is found in S. 984, so that a covered employer would be prohibited from hiring or promoting his son or close relative if some other equally well-qualified individual should apply for the job.

In my opinion, there is a serious possibility that employers would be subjected to a multiplicity of suits on the same violation. I submit for the record a legal memorandum in which this question is discussed. The failure of this bill to make a final determination by the Commission a bar to any other civil or criminal action for the same grievance is most peculiar since S. 984 is modeled after the New York law which includes such a prohibition.

I may also comment at that point that New York has the same rules of statutory construction as prevail in Federal law with respect to the Federal statutes, so the peculiarity becomes even more remarkable.

In fact, the 1945 report of the temporary New York State Commission, under the chairmanship of Senator Ives, held the prevention of multiplicity of suits under section 135 of the law to be necessary to its success. We are at a loss to understand why a similar provision is not included in S. 984.

An employer is defined (sec. 3 (b)) to include any person acting in his interest, directly or indirectly. Thus the test is not whether an employer of 50 or more persons actually authorized an act made unlawful by this bill. He would be liable for back pay awards and subject to expensive legal proceedings if the alleged act was done by a person who was acting directly or indirectly in his interest. This would certainly include superintendents and foremen and might even include trade associations and civic organizations.

And I might add this point that under the decision interpreting the National Labor Relations Act employers have been held responsible for unfair labor practices committed by their foremen and so on, when they had previously expressly forbidden such practice.

It has long been a fundamental concept of any system of justice based on law that the functions of judge and prosecutor should be strictly separated. Anything less than this makes a mockery of the process for determining guilt of innocence. Only recently Congress recognized and reaffirmed this principle when it rewrote the Wagner Act.

In investigating and prosecuting alleged discriminations, the Commission would stand as an adversary to the employer charged with a violation. A principal function of the Commission under this bill is to search out violations of the law and punish the violators. Yet the Commission is also given the authority of a judge in determining whether the law has been broken and in assessing the penalty which should be imposed. We do not believe that the Commission can properly carry out the responsibilities of prosecutor and at the same time give to the individual who is being prosecuted a fair and impartial trial and a judgment in accordance with the facts. We believe this this places on the Commission an impossible burden of serving two masters.

The fact that the Commission is required to operate in accordance with the provisions of the Administrative Procedure Act in no way affects the validity of this conclusion. S. 984 provides that a Commissioner who files a charge may not participate in a subsequent hearing on it, but the most that the Commission is required to do under the Administrative Procedure Act is to separate within its own house its investigating and prosecuting functions from its judicial functions. Officers and employees of the Commission would be prevented from engaging in both types of operations in the same case. Yet we know that under the act—and with the single exception already noted—members of the Commission are exempted from ever this perfunctory separation so that any member of the Commission who took part in an investigation or who aided in the prosecution of an alleged offender, short of filing a charge, could also under this bill and under the Administrative Procedure Act participate or advise in the final decision of the Commission.

And we also know, as Congress did when it passed the Taft-Hartley labor bill, that the esprit de corps which grows up among the employees of an administrative agency usually makes the separation of functions within the agency of little value in giving assurance to every citizen that he will have a completely fair and impartial hearing and a judgment in accordance with the facts.

As already stated, Congress only recently recognized this very weakness in the Administrative Procedure Act when, instead of making

the NLRB subject to this act it took from the Board its investigating and prosecuting functions and placed them in the hands of a General Counsel.

Senator SMITH. Are you suggesting by that if such an act as this were passed that would be an important change to make?

Mr. TAYLOR. I think unquestionably, Senator Smith.

Senator SMITH. I think so too. I think we are in danger.

Senator ELLENDER. Even with that you would still be against the bill?

Mr. TAYLOR. Yes; I would.

It is true that the law provides for judicial review of final orders of the Commission. But the fact that an employer may be entitled to go to court carries no assurance that he will get there. We have tried to figure out why the word "final," which is not included in the New York law, is included in S. 984. We have not found any satisfactory answer to that.

Apart from the possibility that he may not be financially able to defray the expense of long drawn-out litigation, this is a field in which the employer would be exposed to coercion. Furthermore, having properly gotten into court, his relief is frequently entirely inadequate to rectify a prejudicial order of the Commission since the courts have continually refused to interfere with administrative discretion. Years of experience with administrative boards sorting out facts to suit a preconception of policy should have taught us by now that judicial review is a poor substitute for preserving an honest and fair hearing in the first instance.

The Commission would be empowered, upon the request of an employer whose employees refuse to "cooperate in effectuating the provisions of this act to assist in such effectuation by conciliation or other remedial action." If conciliation failed—as it certainly would in certain situations—presumably the employer would be helpless.

Paragraph G (7) of section 6 authorizes the Commission to create local, State, or regional advisory and conciliation councils and to provide these councils with technical and clerical assistance. These might be empowered "to study the problem of specific instances of discrimination" and thus could be turned loose on American employers an army of snoopers in comparison with which the OPA was a relatively modest experiment.

The bill says that such councils shall be composed of "representative citizens," but it is easy to imagine the type of busybody and trouble-maker they would attract. Resistance to these snoopers would be punishable by a fine of not more than \$500, or up to a year in jail, or both (sec. 14).

The bill also authorizes the Commission to cooperate with regional, State, local, and other agencies (par. G (2) of sec. 6) and to make technical studies and make the result of such studies available to interested governmental and nongovernmental agencies (par. G (6)). Thus, there is nothing in the bill to prevent the Commission from "cooperating" with the Southern Conference for Human Welfare, which was recently found by the House Committee on Un-American Activities to be a Communist front organization, and turning over to it information obtained from employers under the power of Government subpoena.

So far as I know, this is the first instance in which it has been seriously proposed that Congress pass a law under which secret and confidential data and official files involving the rights and interests of individual citizens could be turned over to private, nongovernmental agencies.

No fair-minded person can quarrel with the stated objective of this bill, and we do not quarrel with this objective.

But will S. 984, or any recognizable revised version of it, work?

The representatives of the New York and New Jersey commissions appeared before you and testified that similar laws operating on State levels are working. In a concluding burst of eloquence, Mr. Bustard, assistant commissioner of education for the State of New Jersey, said:

The great American dream, whose realization is the one complete answer to foreign ideologies, is coming true for thousands of minority group workers, who, only a few months before, were experiencing rebuff, humiliation, and disillusionment.

I confess to a state of puzzlement over the fact that in New Jersey, and as Mr. Bustard testified, only 312 complaints were received over a period of nearly 2 years; and, as I recall, the New York experience was similar. In its annual report, the division against discrimination of the New Jersey Department of Education felt constrained to take notice of this paucity of complaints and attributed it to the possibility that—

despite the publicity that has been given to the existence of the law, there are many people in the State who do not understand how they may seek redress.

Since the discussion here yesterday, gentlemen, I have tried and obtained some information on the New York experience, and I think perhaps you will wish to know something about it that is interesting.

Senator ELLENDER. You are submitting that for the record?

Mr. TAYLOR. I would like to submit it for the record; yes.

Senator DONNELL. It is very short, just one page. Suppose you read it into the record.

Mr. TAYLOR. This is entitled "History of the Enforcement of New York Law July 1, 1945, to June 1, 1947," from statements of Witnesses Charles Garside and Henry C. Turner.

Number of verified complaints filed, 683.

Complaints dismissed on jurisdiction grounds, 77, or 11 percent.

Complaints withdrawn, 17, or 3 percent.

Complaints classed as being without merit, 305, or 44 percent.

In half of these cases without merit investigation led to discriminatory practices other than the one charged, which were settled informally.

Senator DONNELL. Give me that again. You say in half of these cases without merit investigation led to what?

Mr. TAYLOR. In half of these cases without merit investigation led to the discovery of other discriminatory practices, other than the one charged, which was settled informally; that is, they found in the course of their investigation that that particular discrimination did not exist, but another one did.

Complaints found to be meritorious and settled informally, 135, or 20 percent, in which no formal hearings were held or a cease-and-desist order issued.

Complaints still pending, 149, or 22 percent.

Making the total number of complaints filed, 683.

Senator ELLENDER. As you point out, only 56 percent of the entire number has been found to be meritorious, and of that number 22 percent, or 149, remain to be adjudicated.

Mr. TAYLOR. That is correct, sir.

Now the other half of this, the number of investigations initiated by the commission, were 217. shows only 1 such complaint settled for every 37,037 employer percent.

Investigations resulting in finding violations and settled informally were 97, or 45 percent.

Investigations not closed numbered 51, or 24 percent.

Assuming that there are 5,000,000 employed persons in New York State, the 683 verified complaints filed during the 23 months of operation covered indicates that there was 1 verified complaint for every 7,320 employed persons in the State.

If complaints found to be meritorious are considered, the record shows only 1 such complaint settled for every 37,037 employed persons in the State in 23 months of the law's operation.

Now, we submit, gentlemen of the committee, in view of the fact which I think you, as a committee, can take judicial notice of, there is probably a larger admixture of these minorities in the New York labor force than any other labor force in the country. The fact there has only been 1 verified complaint in 7,320 employed persons in the State shows the law is to all intents and purposes a dead-letter law.

Senator ELLENDER. That was the view I expressed—not that it was a dead-letter law, but I expressed surprise at the small number of complaints entered and adjudications made.

Now would you say the small number might be due to the fact that there are so few people unemployed in the State of New York?

Mr. TAYLOR. I find great difficulty, Senator, in reconciling this with any rational explanation. The thought has been advanced the same people behind the New York law are interested in securing a Federal statute and they are more or less operating under wraps at the present moment.

That, on the face of it, is impossible, but there is nothing to keep these minorities from filing complaints if they want to. It is the sort of situation in which that kind of conspiracy could not exist. So, I put the question to a friend of mine. I am not at liberty to quote his name, but he is one of the best-known personnel management experts in the United States. He was personnel manager for one of the largest corporations in the East.

I asked him what the explanation was. He lives in New Jersey. He says: "We never hear anything about this New Jersey law." He says: "What has happened, people have ceased advertising some racial qualifications. They are spending more money through employment agencies and otherwise in more elaborate investigation of prospective job seekers so they can hedge against any unfair unemployment practices."

I gather that was what Mr. Rankin had in mind here yesterday. But he says the law has had no significant effect whatever on the situation so far as actually hiring and promotion and upgrading are concerned.

Senator SMITH. It might be implied that the statement of discrimination has been exaggerated from these figures. Assuming these were all of the cases, there were relatively few charges.

Mr. TAYLOR. If these figures are in any way indicative of the actual amount of discrimination that exists in New York or New Jersey, there is obviously no need for such law.

Senator SMITH. The other point of view is the figures probably are not true?

Mr. TAYLOR. Yes, sir.

Senator SMITH. Perhaps it has not been going long enough to be effective.

Mr. TAYLOR. We must also remember that these gentlemen who appeared before you representing the New York and New Jersey commissions certainly had no interest in minimizing the action of those laws at the present time.

Yet, the New Jersey commission, in its annual report, felt constrained to take notice of this paucity of complaints and attributed that, despite the publicity that has been given as to the existence of this law, to the fact that there are many people in the State who did not understand how they may seek redress.

Senator DONNELL. May I ask you a question along this line as to whether you are able to draw any conclusion, when 683 complaints were filed in 23 months on which there has never been a formal hearing held or a cease and desist order issued——

Mr. TAYLOR. That is right.

Senator DONNELL. So there has never been a case where the commission has gone to the point of enforcing this law and requiring somebody to abide by its rules. Is that correct?

Mr. TAYLOR. That is right.

Senator DONNELL. The aggregate of cases dismissed as being without merit is 44 percent?

Mr. TAYLOR. That is right.

Senator DONNELL. So that in 44 percent of the cases there would be no occasion for the commission to meet the issue of whether they could or could not enforce the law because they determined that 44 percent ought not be there. That is right, is it not?

Mr. TAYLOR. Yes, sir.

Senator DONNELL. Of the remaining 56 percent, almost half, or 20 percent, were found to be meritorious and were settled informally.

Mr. TAYLOR. Yes, sir.

Senator DONNELL. Settled informally.

Mr. TAYLOR. Yes, sir.

Senator DONNELL. So in those cases there would be no contest that would put it right up to the commission to enforce the law?

Mr. TAYLOR. That is right.

Senator DONNELL. So it narrows down to 22 percent, still pending, or 149 of those claims still pending.

Now, do you know how long they have been pending?

Mr. TAYLOR. Well, I would assume, Mr. Chairman, they have been pending for varying periods within the time of the effective coverage of the act; that is, some of them, I would think, may have been pending, to arrive at an average, as much as a year.

Senator DONNELL. The point I am getting at, and I am going to speak perfectly frankly, is whether or not the commission, when they got to the point where it was going to have to enforce something, would continue the thing and let it pend, so we have not had an actual demonstration of what the effect would be?

I do not know. I am not making any charge against these commissions, and I think they are entitled to a presumption of regularity in all proceedings; but it is very interesting in these figures, in 78 percent of these cases in New York there was never any action, there was never any occasion for any actual cease-and-desist order.

The other 22 percent are pending. If it develops quite a number were pending from way back in the early part of the 23-month period, it might lead to the inference the commission had been a little bit afraid to come to a showdown and see whether or not it could enforce the law and what the effect would be.

As I say, I am not making any charges against the commission, but that thought occurs to me, and I think it is a proper inference, but I wonder if you have any sufficient data to form the theory that you can have conferences and conciliation for an indefinite time, and whether or not they were allowed to pend an unreasonable length of time.

Do I make the point I have in mind clear?

Mr. TAYLOR. Yes; you do, Senator; and I think the inference that you suggested is entirely a presumable one, although I can give it as my opinion under the New York law, and also under this act, that the commission is under legal compulsion to act within a reasonable time and not drag these things out indefinitely as was discussed here yesterday.

Senator DONNELL. I do not suppose you could enforce by mandamus action by this commission unless you had very clear evidence the case had gone beyond a reasonable time; but if you could show the commission allowed the case to pend an unreasonable time, I am not sure then, even if this were amended, an action would lie to compel it to decide the case.

Mr. TAYLOR. I was interested in your line of questioning yesterday, and it seems to me this provision of the act perhaps has some relevance. On page 9, at the bottom section (b)—

If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this Act, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

Now it seems to be the suggestion, which I think you recited very effectively, that there was not only an almost unlimited area in which this thing could drag along, but there was something that amounted to a requirement that exhausted all this voluntary consultation, and that clearly placed it in the category for administrative determination and decree.

Senator DONNELL. In other words, you think the fair import of S. 984 is that while the Commission is required to use informal methods of conferences and conciliation and persuasion, that it cannot just use those methods an unreasonably long time; and if reasonable time and

reasonable effort to effectuate results from those methods shall then fail to bring forth any results, there is then a legal duty on this Commission to go forward and put in effect the compulsory provisions of the bill. Is that your view?

Mr. TAYLOR. Yes, sir.

Senator SMITH. I regret I have to leave for another appointment in a few moments, but I will be back if possible, but I would like to ask the witness one question before I have to leave you.

Senator DONNELL. Yes, sir.

Senator SMITH. Mr. Taylor, on page 9, you say:

No fair-minded person can quarrel with the stated objective of this bill, and we do not quarrel with this objective.

If we do agree with the objective of this bill to give equality of opportunity to all of our people without discrimination, do you conceive of any type of legislation that could attain that objective, or do you believe such legislation is possible?

Mr. TAYLOR. I do not feel this is the proper field for Government intervention. I feel it is a proper field for education.

Senator SMITH. We all agree it is a proper field for education. I want to see how far you go.

Mr. TAYLOR. Continue along the lines we have been pursuing, and from my knowledge of the South I think that real progress is being made along this line. I know more about North Carolina in that respect than any other Southern State. I am perfectly certain it is being improved and I am confident it is in other States.

Senator SMITH. I appreciate your statement. Assuming that you do not feel there is a field for Federal legislation, do you feel in the States—that is, can a State define what it believes unfair employment practices are? Can it set up, as New York has tried to do, a commission which investigates these cases and tries to adjust them, and possibly stops there without going into the legal sanctions?

I admit frankly that is my peculiar difficulty. I want to get at it fundamentally. Do you think State legislation gives the answer?

Mr. TAYLOR. The nearest comparison we have for this type of thing is in the eighteenth amendment, that is, the Volstead Act.

We found that that type of legislation on a national level was utterly impracticable and that it did more harm than it did good. On the other hand, we have found similar legislation on State and local levels has had some measure of success. I am not prepared to say it is not perfectly all right for any State that wants to try this sort of experiment to do it. It does not look like it is working in either New York or New Jersey.

Senator SMITH. I have this much difficulty with your reply. We know prohibition did not work. There is no difference of opinion whether an individual in America should have equality of opportunity. If that is true, I think that is a matter that is of concern to the Federal Government. In our whole government the State aims to protect the individual against wrong. In what respect should we think in terms of a Federal law?

Mr. TAYLOR. I go along with you in most that you have said. It is a question of method.

Senator SMITH. That is right.

MR. TAYLOR. For my own part, I think this is a field in which the nature of the problem is such that the Federal Government cannot operate effectively. I think it will do more harm than good due to the vast extent and the variety of our country and the difference of conditions you can encounter.

It is infinitely easier for me to conceive of this kind of law working in New York than in North Carolina or Mississippi, and to the extent it fails to help and aggravates these conditions, to that extent you have done more harm than good, just as you did under the prohibition amendment.

Senator SMITH. If we stopped with the Commission—if we stopped with an attempt by a properly set up Commission to adjust these difficulties and do it at a local level without putting it under the arm of the law, trying at least with that backing of a statement of Federal policy, to adjust the thing, do you think that would be a factor?

MR. TAYLOR. I do.

Senator SMITH. I have been accused of suggesting we try it in some sections without the arm of the law. I see the difficulty both ways. You probably agree if we do not have some sort of sanctions people would disregard it.

MR. TAYLOR. And should that happen—and I am expressing my own opinion—I think probably the average employer would prefer a brass-knuckle statute here with whatever sanctions you want to put in it rather than this snooping, preliminary conciliatory approach.

Senator ELLENDER. Even on a voluntary basis?

MR. TAYLOR. Yes, sir.

Senator SMITH. You object to what you call snooping?

MR. TAYLOR. I do.

Senator SMITH. I can see the difficulty if somebody came into your plant or my plant.

MR. TAYLOR. And lectured you on your duty to your employees and the morality of some practices and procedures. It is presently evident, at least to us, whether—

Senator SMITH. There is nothing to say on that point; but there is something to say if a man's life is interfered with because he has a dark skin, and I am trying to find some way to protect a man because he has a skin of another color, or has a different religion.

Senator DONNELL. In the course of this testimony, once in a while this situation will arise. Somebody will testify about an alleged discrimination, or refer to it, and the point will be made—I am sorry Senator Ives cannot be here; he sometimes makes this point; I hope to quote him correctly—that the refusal to agree on this, the discriminations prohibited by this act is only a refusal based solely on account of the individual's race, color, origin, or nationality. I do not know whether he said this in so many words, and I am not sure what he would say, but the inference that has come in my mind from time to time is that we will take X Manufacturing Co. about to employ 100, and 10 come up who are colored and 9 who are whites. Would the employer not be violating this act if he would say: "I will not take 6 out of these 10 colored people because they are not suited for this type of work. They are not temperamentally suited or not experts?"

The point I am trying to get from you in this connection is, inasmuch as you are a lawyer, have studied law and are familiar with the

laws, is it your conception in this case I have cited that if the employer should refuse to hire six persons, and further assuming that such is the proportion the colored people would be entitled to, he would say the reason he was not employing them is that he did not think they are fitted to operate a given machine, that they were not temperamentally fitted, would he escape liability under this act because of his refusal to employ colored persons on the ground that they were not properly qualified to do the work, or would his refusal to employ colored people subject him to possible liability which he would have difficulty to refute?

Mr. TAYLOR. It would be unquestionably the law. Your question raises two or three considerations.

Senator DONNELL. I do not know whether I stated it very clearly, but do you get the point I was driving at?

Mr. TAYLOR. In the first place there has to be a determination whether those colored people who were discriminated against were properly qualified. That is a determination that must be made.

Senator DONNELL. May I interrupt you there, even at the penalty of interrupting your continuity of thought? I find in the court findings and declaration of policy:

The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity—

I wonder when we get down to section 5 (a), I do not find anything in there about "properly qualified." It does not specify a refusal to hire properly qualified persons.

Mr. TAYLOR. In the very nature of the situation you may presume "properly qualified" is a declaration of policy, and you could not find discrimination until you first find the person was properly qualified.

Senator DONNELL. You do not think it is necessary to have the words "properly qualified" in section 5 (a) (1) in order to make it "shall qualify" as a precedent to claiming discrimination?

Mr. TAYLOR. That is right.

Senator DONNELL. Good.

Mr. TAYLOR. Now, going on with your question there, you have got this kind of situation. I think the witness for the Urban League submitted statistics on various enterprises, various industries, which showed the very small percentage of minority employees employed by those industries. As I recall there were 60 or 80 of those, like farm machinery.

Now pursuing the analogy of what has been drawn under the Wagner Act—that is, that an allegation of an unfair labor practice will be viewed against the background of the employer's whole attitude, and record of labor relations—it would seem to me to be entirely possible, or, in fact, unless you are going to get into an utterly hopeless battle, working under paragraph (d) of section 10, that you would have whole industries classified as industries which practice systematic discrimination. So that when the case comes up it might very well be that it would be a case of employment in an industry which had been classified by this Commission as an industry which practices systematic discrimination, and, therefore, the employer would be more or less behind the eight-ball to start with.

Approaching that just a little bit further here, this paragraph that I mentioned here shows at the conclusion of the hearing before a member or designated agent of the Commission, the entire record thereof shall be transferred to the Commission, which shall designate three of its qualified members to sit as a Commission and to hear on such record the parties at a time and place to be specified upon reasonable notice.

Now you have two panels there which can operate 300 days a year, and if each panel disposed of 1 case a day you would have a total capacity of 600 cases a year for 60,000,000 people, which is out of the question if you are going to deal with this on a single-shot basis. Instead of having a backlog of 5,000 cases as the National Labor Relations Board, you would have a backlog of 500,000 cases. It looks like as a practical proposition the Commission would be driven to the industry-by-industry practice. What you would have up for hearing probably would not be an individual but an industry, and you would arrive at some sort of quota system. The cotton-textile industry in the South, 354,000 employees, would be ordered to employ a certain percentage of Negroes.

SENATOR ELLENDER. That was the argument advanced by me when S. 101 was pending in the Seventy-ninth Congress. To deal with each individual would be an insurmountable obstacle.

MR. TAYLOR. Exactly.

SENATOR ELLENDER. And it would relegate itself to having a certain percentage of Catholics, Protestants, Jews, and Negroes?

MR. TAYLOR. That is right. So that would create a class of economically displaced persons by reason of the provision of this law.

SENATOR ELLENDER. That entire prospect is what causes you to say the bill would do more harm than good?

MR. TAYLOR. That is correct.

SENATOR ELLENDER. Mr. Taylor, I was asking you about the small number of cases that were brought to the surface in New York as well as New Jersey. Are you familiar with the hearings that were had on the New York or New Jersey law with particular reference to any evidence that was then presented to show the number of cases that were then prevailing that warranted the passage of such a law in New York State?

MR. TAYLOR. Senator Ellender, the only extent I have gone into that is the report of the New York Temporary Commission Against Discrimination. I have not read the hearings. As you recall, they have had a number.

SENATOR ELLENDER. Yes, sir.

MR. TAYLOR. I think there is something in that that would indicate they anticipated a much larger volume of complaints than have since materialized.

SENATOR ELLENDER. I attempted to obtain some information as to the number of complaints that were made prior to the passage of the bill—complaints that would naturally give rise to the need for such a bill, and so far the record is negative on that.

Now, if that assumption is true—that is, that the record of New York and New Jersey is negative on the number of cases that would warrant the passage of such a bill—have you any opinion to express as to why such a bill was presented and who are back of it, and why it was enacted by those two States?

Mr. TAYLOR. This personal friend of mine said, Senator, that the bill in New York and New Jersey was a political gesture to the minority groups of those States; that it was never anticipated that it would be taken seriously from an enforcement angle; that it had not been and would not be. It was a pure political maneuver.

Senator ELLENDER. Who said that?

Mr. TAYLOR. This personal friend of mine—the personnel expert I quoted some time ago. I am not at liberty to disclose his name.

Senator ELLENDER. That expresses my contention with respect to this bill, that the poll-tax bill, the antilynching bill, and a few others, were simply appeasement bills offered by a few Senators for no other purpose than to pacify a few groups in Northern States so as to get the colored vote.

Mr. TAYLOR. If you do not think, Senator, in New York, and a few of those other States, the colored vote is capable of throwing its weight around, especially in Presidential elections, you are wrong. It is my own opinion, with all due respect to the sponsors of this legislation, that it never would have been thought of otherwise.

Senator ELLENDER. Well, I have expressed this view so often on the Senate floor I am bound to agree with you.

Mr. TAYLOR. By the way, you may be interested to know, speaking of a man's origin, nationality, and ancestry, that it was of Communistic origin and was put forward by the French Popular Front in 1935 as sort of a companion piece for the sit-down strike.

Senator ELLENDER. To what extent have you looked into this?

To what extent are you able to testify of your own knowledge, or knowledge that you have gathered from people deserving your confidence, that this New York law was not only passed for political reasons, but sponsored by Communists in their endeavor to overthrow our Government?

Are you able to shed any light on that?

Mr. TAYLOR. We have the record, which is incontrovertible, that this thing has received its most vigorous and articulate report from the Communists and from other Communist front organizations.

Senator ELLENDER. Now where is that record? What does it consist of? Can you submit it for our record?

Mr. TAYLOR. It consists of the entire editorial policy of the Daily Worker, the PM, all of these organizations that have been found to be subversive by the House Committee on Un-American Activities, the Human Friends for Public Welfare.

Senator DONNELL. Is that one of which Clark Foreman is head?

Mr. TAYLOR. Yes. I do not know whether they appeared before this committee. They probably thought as a matter of expediency they had better stay under wraps.

I was tremendously impressed with Mr. Rankin's analysis of some of those questions in that they were so obvious.

Senator ELLENDER. Do you have available a list of those groups that fostered this?

Mr. TAYLOR. Yes; I have it in my office.

Senator ELLENDER. That fostered the passage of the New York law as well as any other State law on the subject?

Mr. TAYLOR. I have it in my office, a complete list.

Senator ELLENDER. Mr. Chairman, I think it would be a good idea to have it in connection with the witness's testimony so it can be incorporated at this point.

Senator DONNELL. It will be incorporated at this point if Mr. Taylor will furnish it.

Mr. TAYLOR. I shall be glad to.
(The list referred to follows:)

PARTIAL LIST OF NATIONAL ORGANIZATIONS SUPPORTING FEDERAL FAIR EMPLOYMENT PRACTICE LEGISLATION

- | | |
|---|---|
| Alpha Kappa Alpha Sorority | National Community Relations Advisory Council |
| American Association of University Women | National Conference of Christians and Jews |
| American Civil Liberties Union | National Consumers League |
| American Friends Service Committee | National Council of Catholic Women |
| American Jewish Committee | National Council of Jewish Women |
| American Jewish Congress | National Council of Negro Women |
| American Unitarian Association | National Council of Student Christian Associations |
| American Unitarian Youth | National Council for a Permanent FEPC |
| B'nai B'rith | National Farmers Union |
| Catholic Interracial Council | National Federation for Constitutional Liberties |
| Central Conference of American Rabbis | National League of Women Shoppers |
| Common Council for American Unity | National Negro Insurance Association |
| Congregational Christian Churches (Council for Social Action) | National Urban League |
| Congress of Industrial Organizations | National Women's Trade Union League of America |
| Delta Sigma Theta Sorority | Negro Newspaper Publishers Association |
| Evangelical and Reformed Church, General Synod | Postwar World Council |
| Federal Council of the Churches of Christ in America | Presbyterian General Assembly |
| Fraternal Council of Negro Churches in America | Sigma Gamma Rho Sorority |
| Improved Benevolent and Protective Order of Elks of the World | Southern Conference for Human Welfare |
| International Brotherhood of Sleeping Car Porters (AFL) | Southern Tenant Farmers Union |
| International Ladies Garment Workers Union of America (AFL) | Study Conference on Just and Durable Peace |
| Iota Phi Lambda Sorority | Union of American Hebrew Congregations |
| Jewish Labor Committee | Union for Democratic Action |
| Jewish War Veterans of the United States | United Automobile Workers of America (CIO) |
| League of United Latin American Citizens | United Council of Church Women |
| March on Washington | Upholsterers International Union of North America (AFL) |
| Methodist Church, General Conference | Women's Division of Christian Service, Methodist Church |
| Methodist Ministers' Union | Women's Division of the American Jewish Congress |
| Millinery Workers, Joint Board (AFL) | Women's International League for Peace and Freedom |
| National Alliance of Postal Employees | Workers Defense League |
| National Association for the Advancement of Colored People | Young Men's Christian Association, National Board |
| National Association of Colored Graduate Nurses | Young Women's Christian Association, National Board |
| National Bar Association | |
| National CIO Committee To Abolish Racial Discrimination | |

Senator DONNELL. You may proceed.

Mr. TAYLOR. But whatever the explanation of this compliance experience may be, this observation would seem to be in order: That it is entirely conceivable that a State antidiscrimination law which would

operate very well in New York or New Jersey might not do so well in Mississippi or Louisiana, or North Carolina, even.

It is conceivable—as we are supposed to have learned from our painful experience with the eighteenth amendment and the Volstead Act—that while legislation regulating people's attitudes can sometimes operate with a fair degree of success at the State and local levels, Federal legislation in this field may be wholly impracticable and unworkable.

Of course it is said by the proponents of S. 984 that what the bill really undertakes to do is not to regulate people's attitudes and abolish race prejudice by legislative fiat, which some of them frankly admit is impossible—and Senator Ives admitted that here yesterday—but only to prohibit discriminatory practices.

But what happens to any law, unless the Government is prepared to resort to mass coercion, which is not supported by majority sentiment?

It fails, just as national prohibition failed, and the ill-considered remedy turns out to be worse than the disease it was designed to cure. As the Supreme Court has said, *Plessy v. Ferguson* (163 U. S. 537 (1896)):

Legislation is powerless to eradicate racial instincts, or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties * * *.

We are dealing here with realities. Discrimination in employment on racial and religious grounds has been practiced the world over since the beginning of time. It still exists and ought to be eliminated. And so, for that matter, should men abandon all of his inhumanities to man—including resort to war?

But human nature changes slowly and then usually only through the gradual processes of education. The spokesmen for various church groups, including the Federal Council of Churches, who have appeared before you know this—or they should know it. With all respect, the fact that they come here and ask Congress to pass a statute implementing the Golden Rule with legal sanctions is appalling. It is, or so it seems to me, nothing less than a confession of the bankruptcy of their own spiritual and moral leadership.

And while freely acknowledging the sincerity of purpose and motive of many of the supporters of this bill, I cannot close this statement without calling attention to the brazen hypocrisy and brutal cynicism of some others who also support it.

Communist Russia is now engaged in reestablishing the institution of human slavery over large areas of the world. This, it would seem is the ultimate in discrimination, the supreme affront to human dignity.

But did you ever hear one expression of honest, American indignation at this spreading Communist tyranny from the Southern Conference for Human Welfare, or from such liberty-hating liberals as Henry Wallace?

I haven't and I doubt if you have. Yet they ring all the changes on this country's supposed "loss of face" because, forsooth, it has not succeeded in wholly eliminating certain age-old prejudices which are deeply, though, we hope, not ineradicably rooted in human nature.

We are confident that when this committee and Congress have thoroughly studied this proposal, it will be emphatically rejected.

Senator DONNELL. Now, you are filing also with your statement this brief on the multiplicity of suits against employers?

Mr. TAYLOR. I would like to, Mr. Chairman.

(The brief on multiplicity of suits referred to follows:

MULTIPLICITY OF SUITS AGAINST EMPLOYERS UNDER S. 984

Section 2 (b) provides as follows: "The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all people of the United States."

In any consideration of prospective liabilities under this bill, section 2 (b) must be given serious consideration. A declaration by Congress establishing a civil right of all people of the United States can hardly be taken lightly unless one is disposed to say that Congress is indulging in an idle gesture.

The legal implications of section 2 (b) cannot be assessed adequately until it is first established what a "civil right" is in our jurisprudence. Various definitions of this term have been offered, but these will suffice to indicate its true meaning.

"A civil right is a privilege accorded to an individual, a right due from one to another and the trespassing upon which may be redressed by a civil action." [Emphasis supplied.] (*U. S. v. 24 Live Silver Black Foxes*, 1 F. (2d) 933.)

Civil rights are "those rights which the municipal law will enforce, at the instance of private individuals, for the purpose of securing to them the enjoyment of their means of happiness." [Emphasis supplied.] (*State v. Powers*, 51 N. J. L. 432; 17 A. 860; 10 Am. Jur. 804.)

A civil right is "the right of a citizen; the right of an individual as a citizen; a right due from one citizen to another, the privation of which is a civil injury for which redress may be sought by a civil action." [Emphasis supplied.] (*Iowa v. Chicago B. & Q. R. Co.*, 87 F. 497 (quoted from Burrill's Law Dictionary).)

It will be noted from these definitions of a civil right that inseparable from such right is that an individual is given a means of redressing an injury caused by the violation of his right. Indeed it is axiomatic that the law does not give one a right without at the same time giving a means of enforcing and securing such right. The creation of a civil right must give rise to an action for a breach of that right, if nullity of the law is to be denied. It is clear then that with every right there goes a duty, breach of which, if culminating in an injury, should constitute cause for a civil action (1 C. J. 924, 985).

The question therefore arises as to whether this bill by granting to every individual a civil right to employment without discrimination also provides him with the means of enforcing and securing such right by bringing a civil suit in addition the means of enforcing and securing such right by bringing a civil suit in addition to or in conjunction with the remedy provided for in the bill.

Before this question can be answered, we must look to see if the remedy which section 7 provides for in enforcing nondiscriminatory employment practices will be construed as exclusive to all other remedies. In other words, does this bill make it clear that an aggrieved person must resort to the procedure provided in the bill, exclusive of all others he might have? And if the answer to this is "no," then is he required to make a binding election as to which procedure or forum he will resort to; or can he, either after or while resorting to the procedure provided by this bill, seek another remedy and another forum?

To analyze these questions let us first begin with the accepted general rule that where a statute creates a new right and also provides for its enforcement, it is ordinarily held that such remedy is exclusive (*Steichen's Union of North America v. National Mediation Board*, 320 U. S. 297; *Bowles v. Warner Holding Co.*, 151 F. (2d) 529; *Alba Trading Co. v. Constants*, 45 N. Y. S. (2d) 619, 181 Misc. 248; 1 C. J. 969; 1 R. C. L. 823).

However, this general rule represents an oversimplification of a very complex question of law. The rule is first of all a generalization and has several exceptions, all resting on the intent of the legislature (*State ex rel. Wright v. Barney*, 276 N. W. 676; *Hartford R. Co. v. Kennedy*, 12 Conn. 406).

That these exceptions merit easily be found to apply to this bill once it becomes law is apparent, since none of its terms state either directly or indirectly that the statutory remedy, once finally determined, is to be the exclusive remedy. In fact section 2 (b), as well as the other provisions of this section relating to findings and declaration of policy, could be easily construed as negating any presumed intent to prohibit other remedies.

Take for instance section 2 (d) which makes it a policy of the United States to protect the right recognized and declared in subdivision (b). It certainly would not be difficult for a court to hold that this declared policy precludes it from denying a complainant the right to litigate a grievance before it, even though the Commission had previously rendered a determination adverse to the complainant.

Furthermore, the fact that the principal remedial provisions of this bill are not penal in nature entitles it to a liberal construction (*Camunas v. New York etc. S. S. Co.*, 260 F. 40). And this liberal construction may well be applied in light of the declared purpose of the bill to eliminate discriminatory employment practices.

Further support for the contention that a court may find that the intention of Congress in passing this bill was not directed to making the statutory remedy exclusive, is to be found in the fact that the New York State law—after which this bill is patterned—contains a specific provision making a final determination under its procedure a bar to any other civil or criminal action (N. Y. Laws of 1945, ch. 118, sec. 135).

Based on this analysis, as well as on common sense, it seems undeniable that lack of any language in this bill evincing a clear intent to make a final determination by the Commission a bar to any other action will necessarily create a serious threat of multiplicity of suits and a consequent harassment and double jeopardy on employers.

Senator DONNELL. Now Senator Ellender, do you desire to ask Mr. Taylor any further questions?

Senator ELLENDER. No, sir; I think that is all.

Senator DONNELL. Mr. Taylor, we very much appreciate your appearance and the valuable testimony you have given.

Mr. TAYLOR. I appreciate the courtesy of the committee.

(Mr. Taylor submitted the following brief:)

STATEMENT BY TYRE TAYLOR, GENERAL COUNSEL, SOUTHERN STATES INDUSTRIAL COUNCIL, IN OPPOSITION TO S. 984, JULY 17, 1947

Before reciting our objections to S. 984, I should perhaps briefly discuss its coverage.

Unlike S. 101 which was introduced in the Seventy-ninth Congress, this bill does not apply to State and local governments, or to religious, fraternal, educational, and other organizations, other than labor organizations, which are not organized for private profit.

Also exempted are employers of less than 50 persons.

All other employers, including the Federal Government—and including employers engaged in activities which "affect commerce"—are covered. In the case of private employers of 50 or more persons, ultimate coverage may be expected to be coextensive with that of the National Labor Relations Act. Under that act, it has been held that an employer producing entirely for local consumption is nevertheless covered if some part of his raw materials come from outside the State (*N. L. R. B. v. Richter's Baking Company*, 140 Fed. (2d) 870 (C. C. A. 5th, 1944)).

But although this general assumption as to the scope of the pending bill's coverage would appear to be well founded, such extension may be, from the standpoint of the individual employer, entirely unforeseeable. This is so because the extension is not brought about through any affirmative or specific act of Congress—other than the inclusion in the bill of the words "affecting commerce"—but through administrative determinations and court decisions. This in itself is a serious defect, but for the purpose of this discussion, I am assuming that practically all employers of more than 50 persons will eventually be held to be covered, and this irrespective of whether they are engaged in activities usually regarded as interstate or local in nature.

The council's objections to the bill fall into three general categories:

1. Certain of its provisions are not believed to be in the public interest;
2. Certain of its provisions are unduly oppressive upon employers; and
3. We do not believe it will work.

A

Taking up these objections in the order named, we find, first, that this bill, if enacted into law, would facilitate sabotage and espionage in the event this country should get into another war—especially a war with any nation which has a large fifth column in this country. The bill applies to the United States Government and its instrumentalities and would make it unlawful to discriminate against any applicant because of his national origin. Thus the Atomic Energy Commission, for example, would be precluded from inquiring as to the nationality or place of birth of a job applicant, or whether he was a naturalized or native-born citizen of the United States.

There is serious question as to whether a job applicant may even be asked whether he is a citizen of the United States, although the New York commission has held that the question, thus framed, is proper. Whether this interpretation will be upheld by the courts, however, remains to be seen.

What has been said about the Government as an employer would likewise be true in the case of private industry, since it would be made illegal, prior to employment, to make inquiry into the national origin or ancestry of those applying for employment.

It could be that this is one of the reasons why S. 984 and its predecessor, S. 101, have had such ardent support from the Communists and all their front organizations. Of course no other nation in the world would for an instant consider extending such an invitation to sabotage.

In the second place—and still considering the bill from the broad standpoint of the public interest—this legislation, if enacted, would be profoundly divisive in its effect upon the population.

Paragraph 1 of section 5 would abolish all forms of segregation in every southern operation covered by the bill and, as we have already seen, this would include practically all. You have it on the word of such well-known friends of the Negro race as Mark Etheridge, Virginius Dabney, Ralph McGill, and John Temple Graves that this is not the way to advance racial tolerance and good feeling, but rather its exact opposite. I say to you with all the earnestness at my command that any serious attempt to break down segregation in the South at this time will lead to trouble.

Nor is this situation limited to the South. California farmers, for example, while noted for their willingness to employ workers from all minority groups, have nevertheless usually found it necessary to confine their hiring to one group in order to avoid—or at least not aggravate—ill feeling among minorities. I am told that this was one of the factors which caused the voters of California to reject a so-called Fair Employment Practices Act (State proposition No. 11) last November. It was recognized that if farmers were compelled by law to put minorities with conflicting customs, creeds, and prejudices into the close proximity required for agricultural labor, friction and even violence would result.

Today—hardly less than during the actual shooting war—the country needs unity and it needs production. It needs an end to this eternal accentuation and exacerbation of racial differences as such.

B

The bill in its present form would be unfair to employers in so many ways that I can do little more than list them within the time at my disposal.

1. In the first place, it largely eliminates managerial discretion in hiring, firing, and promoting employees. It prohibits discrimination against "properly qualified" persons. But who makes the final determination as to whether a person is "properly qualified" for employment or promotion in any particular business? It would be made by a Government agent. Exercise of the employer's judgment to select a group of individuals and build an organization which will work together as a team is outlawed when it conflicts with the judgment of a Federal commission.

As Donald Richberg observed at the time S. 101 was pending—and it is equally true of S. 984—"such a law would give to persons whose employment has never been invited or desired the right to claim that they are being unlawfully refused employment. There is no defined class of 'employees,' so that if an employer were considering hiring anyone from an office boy to a general manager, he would act at his peril in rejecting the application of a man who might claim that he has been discriminated against because of his race, religion, color, national origin, or ancestry."

Indeed, an employer with a job vacancy might be victimized by roving bands of professional job seekers whose sole purpose is to extort money by threats of filing charges of discrimination. Under this bill such persons need not be bona fide applicants for work.

2. Under paragraph 2 of section 5, the employer also acts at his peril in utilizing any employment agency, placement service, training school, or center, or labor union without first making certain that such agency does not itself discriminate because of race, religion, color, national origin, or ancestry.

3. By definition, the New York law excludes any individual employed by his parents, spouse, or child. No such exemption is found in S. 984, so that a covered employer would be prohibited from hiring or promoting his son or close relative if another individual equally well qualified should apply for the job.

4. In my opinion, there is a serious possibility that employers would be subjected to a multiplicity of suits on the same violation. I submit for the record a legal memorandum in which this question is discussed. The failure of this bill to make a final determination by the Commission a bar to any other civil or criminal action for the same grievance is most peculiar since S. 984 is modeled after the New York law which includes such a prohibition.

In fact the 1945 report of the temporary New York State commission, under the chairmanship of Senator Ives, held the prevention of multiplicity of suits under section 135 of the law to be necessary to its success. We are at a loss to understand why a similar provision is not included in S. 984.

5. An employer is defined (sec. 3 (b)) to include any person acting in his interest, directly or indirectly. Thus the test is not whether an employer of 50 or more persons actually authorized an act made unlawful by this bill. He would be liable for back-pay awards and subject to expensive legal proceedings if the alleged act was done by a person who was acting directly or indirectly in his interest. This would certainly include superintendents and foremen and might even include trade associations and civic organizations.

6. It has been a fundamental concept of any system of justice based on law that the functions of judge and prosecutor should be strictly separated. Anything less than this makes a mockery of the process for determining guilt or innocence. Only recently Congress recognized and reaffirmed this principle when it rewrote the Wagner Act.

In investigating and prosecuting alleged discriminations, the Commission would stand as an adversary to the employer charged with a violation. A principal function of the Commission under this bill is to search out violations of the law and punish the violators. Yet the Commission is also given the authority of a judge in determining whether the law has been broken and in assessing the penalty which should be imposed. We do not believe that the Commission can properly carry out the responsibilities of prosecutor and at the same time give to the individual who is being prosecuted a fair and impartial trial and a judgment in accordance with the facts. We believe that this places on the Commission an impossible burden of serving two masters.

The fact that the Commission is required to operate in accordance with the provisions of the Administrative Procedure Act in no way affects the validity of this conclusion. S. 984 provides that a commissioner who files a charge may not participate in a subsequent hearing on it, but the most that the Commission is required to do under the Administrative Procedure Act is to separate within its own house its investigating and prosecuting functions from its judicial functions. Officers and employees of the Commission would be prevented from engaging in both types of operations in the same case. Yet we know that under the act—and with the single exception already noted—members of the Commission are exempted from even this perfunctory separation so that any member of the Commission who took part in an investigation or who aided in the prosecution of an alleged offender, short of filing a charge, could also under this bill and under the Administrative Procedure Act participate or advise in the final decision of the Commission.

And we also know, as Congress did when it passed the Taft-Hartley labor bill, that the esprit de corps which grows up among the employees of an administrative agency usually makes the separation of functions within the agency of little value in giving assurance to every citizen that he will have a completely fair and impartial hearing and a judgment in accordance with the facts.

As already stated, Congress only recently recognized this very weakness in the Administrative Procedure Act when, instead of making the NLRB subject to this act it took from the Board its investigating and prosecuting functions and placed them in the hands of a general counsel.

7. It is true that the law provides for judicial review of final orders of the Commission. But the fact that an employer may be entitled to go to court carries no assurance that he will get there. Apart from the possibility that he may not be financially able to defray the expense of long-drawn-out litigation, this is a field in which the employer would be exposed to coercion. Furthermore, having properly gotten into court, his relief is frequently entirely inadequate to rectify a prejudicial order of the Commission since the courts have continually refused to interfere with administrative discretion. Years of experience with administrative boards sorting out facts to suit a preconception of policy should have taught us by now that judicial review is a poor substitute for preserving an honest and fair trial in the first instance.

8. The Commission would be empowered, upon the request of an employer whose employees refuse to "cooperate in effectuating the provisions of this act to assist in such effectuation by conciliation or other remedial action." If conciliation failed—as it certainly would in certain situations—presumably the employer would be helpless.

9. Paragraph (g) (7) of section 8 authorizes the Commission to create local, State, or regional advisory and conciliation councils and to provide these councils with technical and clerical assistance. These might be empowered "to study the problem of specific instances of discrimination" and thus could be turned loose on American employers an army of snoopers in comparison with which the OPA was a relatively modest experiment. The bill says that such councils shall be composed of "representative citizens," but it is easy to imagine the type of busybody and troublemaker they would attract. Resistance to these snoopers would be punishable by a fine of not more than \$500, or up to a year in jail, or both (sec. 14).

10. The bill also authorizes the Commission to cooperate with regional, State, local, and other agencies (par. (g) (2) of sec. 8) and to make technical studies and make the result of such studies available to interested governmental and non-governmental agencies (par. (g) (6)). Thus, there is nothing in the bill to prevent the Commission from "cooperating" with the Southern Conference for Human Welfare, which was recently found by the House Committee on Un-American Activities to be a Communist-front organization, and turning over to it information obtained from employers under the power of Government subperna.

So far as I know, this is the first instance in which it has been seriously proposed that Congress pass a law under which secret and confidential data and official files involving the rights and interests of individual citizens could be turned over to private, nongovernmental agencies.

Q

No fair-minded person can quarrel with the stated objectives of this bill and we do not quarrel with this objective.

But will S. 984, or any recognizable revised version of it, work?

The representatives of the New York and New Jersey commissions appeared before you and testified that similar laws operating on State levels are working. In a concluding burst of eloquence, Mr. Bustard, assistant commissioner of education for the State of New Jersey, said:

"The great American dream, whose realization is the one complete answer to foreign ideologies, is coming true for thousands of minority group workers, who, only a few months before, were experiencing rebuff, humiliation, and disillusionment."

I confess to a state of puzzlement over the fact that in New Jersey, and as Mr. Bustard testified, only 312 complaints were received over a period of nearly 2 years and, as I recall, the New York experience was similar. In its annual report, the division against discrimination of the New Jersey Department of Education felt constrained to take notice of this paucity of complaints and attributed it to the possibility that, "despite the publicity that has been given to the existence of the law, there are many people in the State who do not understand how they may seek redress."

But whatever the explanation of this compliance experience may be, this observation would seem to be in order: That it is entirely conceivable that a State antidiscrimination law which would operate very well in New York or New Jersey might not do so well in Mississippi or Louisiana.

¹ Query why the word "final," which is not in the New York law, is included in S. 984.

It is also conceivable, as we are supposed to have learned from our painful experience with the eighteenth amendment and the Volstead Act, that while legislation regulating people's attitudes can sometimes operate with a fair degree of success at the State and local levels, Federal legislation in this field may be wholly impracticable and unworkable.

Of course, it is said by the proponents of S. 964 that what the bill really undertakes to do is not to regulate people's attitudes and abolish race prejudice by legislative fiat, which some of them frankly admit is impossible, but only to prohibit discriminatory practices.

But what happens to any law, unless the Government is prepared to resort to mass coercion, which is not supported by majority sentiment?

It fails, just as national prohibition failed; and the ill-considered remedy turns out to be worse than the disease it was designed to cure. As the Supreme Court said, "Legislation is powerless to eradicate racial instincts, or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties . . ."

We are dealing here with realities. Discrimination in employment on racial and religious grounds has been practiced the world over since the beginning of time. It still exists and ought to be eliminated. And so, for that matter, should man abandon all of his inhumanities to man—including resort to war.

But human nature changes slowly and then usually only through the gradual processes of education. The spokesman for various church groups, including the Federal Council of Churches, who have appeared before you know this—or they should know it. With all respect, the fact that they come here and ask Congress to pass a statute implementing the Golden Rule with legal sanctions is appalling. It is—or so it seems to me—nothing less than a confession of the bankruptcy of their own spiritual and moral leadership.

And while freely acknowledging the sincerity of purpose and motive of many of the supporters of this bill, I cannot close this statement without calling attention to the brazen hypocrisy and brutal cynicism of some others who also support it.

Communist Russia is now engaged in reestablishing the institution of human slavery over large areas of the world. This, it would seem, is the ultimate in discrimination, the supreme affront to human dignity.

But did you ever hear one expression of honest, American indignation at this spreading Communist tyranny from the Southern Conference of Human Welfare, or from such liberty-hating "liberals" as Henry Wallace?

I haven't and I doubt if you have. Yet they ring all the changes on this country's supposed "loss of face" because, forsooth, it has not succeeded in wholly eliminating certain age-old prejudices which are deeply, though, we hope, not ineradicably rooted in human nature.

We are confident that when this committee and Congress have thoroughly studied this proposal, it will be emphatically rejected.

Senator ELLENDER. Mr. Chairman, I notice in the statement of Mr. Taylor today that he quotes from Mr. Donald Richberg. Mr. Donald Richberg is a most prominent lawyer and familiar with matters of labor relationships, and I am wondering if it would not be a good idea to send him a copy of this statement together with a copy of the statement made by Mr. Frank Looney, an attorney of Louisiana, together with a brief by Mr. Charles Tuttle, and ask him to study these and prepare a statement of his own and any comment he desires to make on the bill, and that he be invited to do so by this committee.

Senator DONNELL. I think that is entirely proper that such an invitation be issued. I think inasmuch as they may involve considerable work we should not put it in the form of a request, which may prove embarrassing to both him and the committee, but if there is no objection, and I take it there is not, the clerk will communicate with Mr. Donald Richberg and notify him of the committee's action and invite

¹ *Plenty v. Ferguson* (188 U. S. 687 (1906)).

him to extend his views in writing to reach us by as early next week as is convenient and practicable to Mr. Richberg.

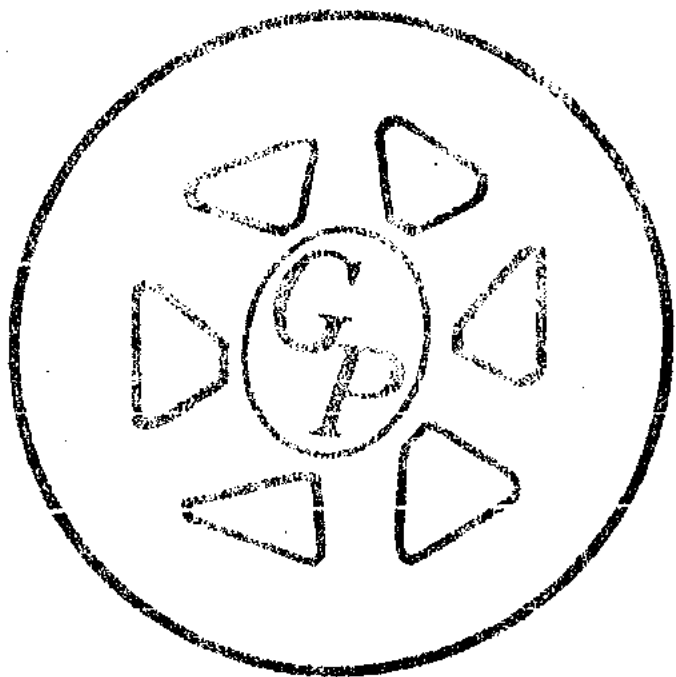
(Subsequently Mr. Richberg, in response to the committee's invitation, submitted a brief, which appears on p. 794.)

Senator ELLENDER. Mr. Chairman, I expect to receive in the course of the next few days, a few statements of southern governors, or their representatives, and I would ask permission to incorporate those in the permanent record.

Senator DONNELL. Permission is granted to do so.

Now the public hearing will be in recess and the committee will remain in executive session a few minutes.

(Whereupon, at 1:30 p. m., the subcommittee went into executive session, at the conclusion of which the subcommittee adjourned.)



APPENDIX

STATEMENT OF GRACE E. COOKE, EXECUTIVE SECRETARY, NATIONAL EMPLOYMENT BOARD—A BRIEF STATEMENT OF THE NATIONAL EMPLOYMENT BOARD IN OPPOSITION TO PARTS OF S. 984, A BILL TO PROHIBIT DISCRIMINATION IN EMPLOYMENT BECAUSE OF RACE, RELIGION, COLOR, NATIONAL ORIGIN, OR ANCESTRY

To the Members of the Subcommittee of the Committee on Labor and Public Welfare of the United States Senate:

By your leave we beg to file herewith a statement with respect to the above-entitled matter.

Your petitioner, the National Employment Board, was organized in 1918, and is composed of commercial or fee-charging employment agencies engaged in the negotiation of employment in the specialized fields of educational, technical, commercial, and general office personnel.

Affiliated with the National Employment Board is the Employment Agencies Protective Association of the United States, organized in 1923, and composed of commercial or fee-charging employment agencies of all classifications.

The object or purpose of the National Employment Board is "to promote constructive publicity regarding the fee-charging employment agency service; to create a better understanding, acquaintance, coordination, and cooperation among the agencies serving men and women engaged in technical, educational, and commercial pursuits; to increase the efficiency of the agency service by the promotion of effective methods for serving employers and employees, by the consideration of the relations between employers and employees, and by the investigation and study of industrial and economic conditions; to set and maintain the highest standards of practice; to amply protect its members against all acts, methods, and practices inimical to the best interests of the service."

A FEW SALIENT FACTS WITH RESPECT TO THE COMMERCIAL OR FEE-CHARGING EMPLOYMENT AGENCY AND ITS PROBLEMS IN SELECTION

In essence, the business of the fee-charging employment agency is the sale of a personal service and differs in no material respect from that of the doctor or the lawyer. The very nature of this service brings it within the confidential class. The agency acts as an intermediary between the employee and the employer. To effectively serve one, the agency must efficiently serve the other. The agency's main interest is to negotiate employment where the employee will remain and be contented. The employee of today may be the employer of tomorrow. Every satisfactory placement is a builder of that something known as good will, and the success of this service is built largely on good will. The great majority of this class of agency makes its service charge to the employee.

Matching men or women and jobs by an agency is not as simple a procedure as it may seem. The agency has the requirements and the desires of the employee before it as they appear on the registration form and notations made at the time of a personal interview, or, where a personal interview is not possible, the supplemental statement which usually accompanies the application. The agency likewise has the employer's so-called requisition specifying educational background, ability, and experience. However, factors which are not so easily defined as those contained in the application and requisition forms in a large measure control proper selection. Those who are not familiar with the matching-up process can hardly conceive of the prominent place that personality and types occupy. The first impression of a personnel manager or of those in charge of employing in an organization often determines whether or not a man or woman is to be employed.

Two illustrations of this truth are found in the following incidents.

Two years or so ago a representative of one of the country's outstanding manufacturing companies who was in Boston interviewing graduates of several engineering schools, told a group of vocational counselors something of how he selected trainees. He required that the desk at which he sat when interviewing students should face the door through which the students passed on their approach to his desk. He knew, he said, before the interview opened every student that he was not going to consider favorably regardless of his record. He checked them off in his mind before he considered their scholastic and other background. On the ladder of qualifications he rated personality first and ability to get on with people second. A student might measure up 100 percent when it came to actual knowledge and ability, but if he didn't have personality or that indefinable something, or hadn't through his college years shown ability to get along with his fellow students, he was out of the running for a job with that company.

Not so long ago an internationally known organization placed a blind ad in a local paper for a stenographer-typist. Approximately 200 replies were received. The personnel manager selected from those replies eight applicants to whom tests of performance were given. Four passed but none were hired because the head of the department or the person for whom the typist-stenographer would work did not like their personalities or personal appearance, or they did not have that "indefinable something."

These are not extreme examples but fairly common, varying with conditions and situations and the person delegated to interview and often to employ.

One of the principal qualifications for a satisfactory fee-charging employment agency placement manager—the man or woman who sits at an agency's placement desk, interviews and selects—is the ability or faculty to size up a person or a situation.

A placement manager might select six applicants for a given job, all having about the same educational and experience qualifications. There would be six applicants all measuring up to the employer's general specifications. Three only are to be sent for an interview, this in accordance with the employer's instructions. The three chosen by the agency may not from the standpoint of experience and knowledge rank as high as two of the other three but they possess that something called personality which the two do not have to the same degree at least. The three selected are the type the personnel manager employs. The agency knowing it, is governed in its selection. If two of the other three happen to be of a so-called minority group, it would be very difficult for the agency to prove that it did not discriminate against those two people on account of race, religion, color, national origin, or ancestry, either by itself or at the request of the employer.

An agency may not direct an applicant to an employer, or in selecting applicants for an interview may not select an applicant even though he has all of the qualifications laid down in the employer's requisition, because the agency is in possession of facts that would disqualify the applicant for a position of trust or responsibility.

Were such an applicant in the group §. 984 is designed to protect and were he to set up the contention that the agency was biased or that it discriminated because of an employer's requirements, the agency could not without divulging its reason and the source of its information protect itself. It could not violate the confidence of the individual or department that gave the reference. When a fee-charging employment agency asks any one, whether it be a former employer, the head of a college or school placement bureau, or others, for references, that agency agrees to hold all information given to it strictly confidential.

EXAMINATION OF PARTS OF §. 984 AND OBJECTIONS THERETO

It would seem that the only two provisions of this proposed bill which could bring a fee-charging employment agency under its provisions, except where an agency is an employer itself, are—

First, the definition of employer, section 3 (b) :

"The term 'employer' means a person engaged in commerce or in operations affecting commerce having in his employ 50 or more individuals; any agency or instrumentality of the United States or any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly." [Emphasis added.]

However, there is a question whether a court would find that a fee-charging employment agency acting in the capacity of an intermediary fell within the definition of "employer" other than in cases where such an agency is charged by an employer with actually employing, where the agency would be in the same

position with relation to the employer as the employer's personnel manager or head of a department in employing for him.

Second, section 5 (a), subsection (2), would penalize an agency by depriving it of its rights to do business with an employer and without giving that agency an opportunity to defend itself and to prove its innocence.

"Sec. 5 (a) It shall be an unlawful employment practice for an employer—

"(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry."

It is not altogether clear why the drafters of this bill took the indirect approach to bring an employment agency within the provisions of the law that it did in the foregoing subsection, but whatever the reason may be, it would seriously injure and certainly discredit a service.

While not an objection to any part of the bill, there is a side which should be considered. An employment agency might and probably would have difficulty in determining what employer is and what employer is not engaged in interstate operations, what business this bill if enacted into law would not cover. Decisions of courts interpreting the Fair Labor Standards Act—the wage and hour law—have varied somewhat; in fact, in some cases it has been difficult to distinguish between the factors which have determined that one business falls within the Fair Labor Standards Act and that another business does not.

In States where there are fair employment practice laws it might be difficult for an agency to know whether it was subject to the Federal, State, or both laws. Confusion would be bound to result.

CONCLUSION

Inasmuch as the fundamental purpose of this proposed law is to prevent the denial of employment to any one because of his race, religion, color, national origin, or ancestry, the responsibility should rest on the shoulders of the employer, and all prohibitions and regulations should apply to him or to his duly authorized representative who is charged with employing, and should not apply to an employment agency when it acts only as an intermediary to bring the employee and employer together for an interview.

In many cases it would not be possible to prove that either by itself or in the interest of an employer an agency did not discriminate against applicants because of race, religion, color, national origin, or ancestry, where personalities, types, and substandard references were determining factors in an agency's selection.

It should not be expected that any self-respecting individual would assist an employer to violate the law or connive with him to circumvent it. Those engaged in the fee-charging employment agency business are as a class self-respecting, law-abiding citizens doing a worth while piece of work, helping men and women to help themselves. A large number of these employment men and women have given years of their lives to this calling and have built up good will over the years. Their business shows a sizeable financial investment.

Then, too, the applicant, the employee, except in a very small percentage of cases, pays the agency charge. It is inconceivable that these men and women engaged in the fee-charging employment agency service would by themselves or in the interest of the employer discriminate against men and women from whom the agency receives its profits, except possibly in such remote cases as to be a negligible factor.

Any number of men and women sitting in high places and charged with employing—the employers of today—got their start through a fee-charging employment agency. Whether as an employer the former employee turns to an agency for service depends largely on the treatment accorded him as an applicant.

We submit that so-called discrimination does not exist to the extent that legislation of so sweeping a character as S. 984 provides is necessary. May we suggest that such legislation places an emphasis on the very thing this bill is designed to destroy.

Provided it be the pleasure of your committee to recommend the passage of a fair employment practice law, we ask—

First, that S. 984 should be so written that a fee-charging employment agencies have no place therein when acting as an intermediary between the employer and

the employee in bringing the two together and where the employment agency is not charged by the employer with employing.

Second, provided your committee does not see its way clear to grant this request, which would seem to be reasonable and sound, we ask that whatever provision or provisions of the bill shall include the fee-charging employment agency be so written and so administered as to clearly define the responsibility of the agency and give it an opportunity to defend itself against any charge made under the law.

Third, that the law clearly define all requirements and regulations and that the administrative body shall not be given the authority to make rules and regulations which have the force of law, rules, and regulations which in themselves write new legislation, and which only Congress should prescribe.

Respectfully submitted,

NATIONAL EMPLOYMENT BOARD,
GRACE E. COOKE, *Executive Secretary*.

NOTE.—"Employee" and "applicant" have been used interchangeably.

STATEMENT OF REV. JOHN W. DARR, JR., EXECUTIVE SECRETARY, UNITED CHRISTIAN COUNCIL FOR DEMOCRACY, NEW YORK, N. Y.

The United Christian Council for Democracy is a federation of five Protestant unofficial social action organizations: The Methodist Federation for Social Action, the Church League for Industrial Democracy (Episcopal), the Rauschenbusch Fellowship of Baptists, the Unitarian Fellowship for Social Justice, and the Evangelical and Reformed Council for Social Reconstruction. These organizations are made up of some 10,000 progressive clergy and laymen in churches throughout the United States. As their titles imply, these groups are devoted to the business of implementing the imperatives of their religious faith through appropriate legislation or other measures of action directed toward the maintenance and extension of democracy at home and abroad. On behalf of each of these organizations and in the name of the United Christian Council for Democracy, I come here to speak in favor of resolution S. 981, the measure now under consideration by your committee.

Perhaps the question that committee members would put to church leaders is this: Cannot the ultimate aims of this proposed legislation be better achieved by education—particularly the moral education provided by the churches? The answer of liberal churchmen is this: We stand for both education and legislation; one is an essential complement of the other. The church will yield to no group in society in recognition of the need for education against discrimination. The church will accept its share of responsibility in providing that education. But liberal churchmen will say that the education against discrimination has now proceeded to the point where the majority of the people of the country are ready to have their convictions written into specific public policy and under law to hold accountable the minority unwilling to accept the policy. They are convinced we are ready for a law prohibiting discrimination in employment.

During the last war, the manpower demands tremendously stepped up the tempo of education against discrimination. Employers took the men and women who could do the work without discriminating as to race, creed, color, or national origin. Many employers testified, as shown in the records of the War Council of the State of New York, to their appreciation of the employees from minority groups at work in their plants, that employees of minority groups have been accepted by other employees, that they have worked shoulder to shoulder in harmony. That is to say, employers were educated by their wartime experience. Prejudices they may have possessed gave way as a result of the compulsory measures of war. What happened to employers also happened to workers. In the comradeship of the bench, they learned wholesome respect for one another and good feeling grew among them.

Since the end of the war democratically minded employers, whom we think to be in the majority, have been willing that the wartime nondiscriminatory practice be made permanent public policy. They have justly insisted, however, that such a policy be practiced by all alike. The minority of employers who insist upon the absolute right to hire and fire irrespective of public interest should under law be held responsible and accept the penalty of their unfair-employment practice. The same thing goes for labor unions. The majority of unions have

opened their ranks without discrimination. They, therefore, do not like to see a few unions continue segregation or auxiliary set-ups and get away with it. As the temporary commission on this subject in New York State in 1945 pointed out, legislation is essential in "protecting the well-disposed from exploitation by the conscienceless."

Churchmen are not always realistic in their appraisal of the economic struggle. But it appears to members of our council that not only is the attempt to eliminate discrimination in employment a fundamental issue in this matter, but also the whole problem of full employment and a decent standard of wages as a basis for a prosperous America. If, because of discriminatory practices in employment, Negroes must take jobs at any kind of wages in order to avoid unemployment, such a situation acts as a depressant on the wages of all workers by providing a cheap labor market for employers. Discrimination in employment thus becomes a means for breaking down wage standards generally and the living standards of our people. So serious a menace to economic democracy in our Nation must not be dealt with by education alone but is the proper subject of regulation by law. We therefore urge your favorable consideration of S. 984 as a measure to advance American democracy.

STATEMENT OF CLARK FOREMAN, PRESIDENT SOUTHERN CONFERENCE FOR
HUMAN WELFARE

As a representative of the Southern Conference for Human Welfare, I urge the enactment of S. 984.

Discrimination in employment is a Nation-wide problem, but this problem is most acute in the Southern States. There, despite excellent war records, Negro workers have been discriminated against in many types of employment. Skilled workers all over the South have been forced into menial jobs because of their race. Prejudice has deprived the South of a large portion of its potential skilled labor, and has thus lowered the productive output of southern industry.

The average income of southern Negroes is approximately half that of southern whites. The problem of low incomes in the South, however, is not solely a Negro problem. The low incomes and standards forced upon Negroes in this area contribute toward lowering the income and standard of living of the entire South. Discriminatory wages are a first step in a general downward trend in earnings. Largely because of the effects of discrimination in employment, the average per capita income in the South is half of that in the rest of the country. The average southerner has become a half-priced American.

On the basis of a study made by the Chamber of Commerce of Anderson, S. C., it has been estimated that if the income of the Negro population were raised to that of the white group, it would add one and three-quarter million dollars to the purchasing power of that county alone. According to the McCarran committee report of the United States Senate, if the per capita income of the 10 Southeastern States was raised to the national average, it would add 10 billion dollars to the national purchasing power. This potential purchasing power is especially important today when American businessmen are in vital need of new markets.

Prejudice of any type against minority groups is a denial of our democratic principles, but nowhere is it more important to eliminate prejudice than in employment. The right to a decent job and to a standard of living above mere subsistence level is one of the most basic rights offered by our form of government. It is interesting to note that in a recent survey of Negroes, they listed that equal opportunity of employment was the right they desired the most, whereas in the same survey white people indicated that inequality of employment opportunities was the discrimination which they were most willing to discard.

I have heard many people say that it is impossible to enact an FEPC law because the South is solidly against it. That is not so, as I and the members of our organization know from experience. Prejudice is not congenital with southerners, it is fostered by the few men who profit economically from dividing the people, from charging exorbitant prices to a group because of race, and from paying unfair wages for the same reason. We cannot keep the South in poverty to appease these bigots.

When white southerners become accustomed to working with Negroes on an equal basis, and when Negro standards are raised because of fair wages, whites

will begin to realize the falsity of racial bias. Fair employment practices would help all the people of the South and make democracy a reality in this country.

The South is in a period of transition. It is changing rapidly from its traditional agricultural economy to one more industrialized, and it will need the full services of all the manpower at its command to make this change.

The United States is heading toward a major depression if the present imbalance between wage and price levels continues. Such a depression would be disastrous, not only to our domestic standard of living but also to the position of world leadership which our country must maintain. The greatest opportunity for raising the mass purchasing power to the point where it can constantly absorb full production lies in raising the wages of underpaid minorities to the average level for the rest of the Nation.

Fair employment practices are essential not only to maintain democracy, but also to maintain and expand the prosperity of the United States.

STATEMENT OF ROBERT W. KENNY, PRESIDENT, NATIONAL LAWYERS GUILD

The National Lawyers Guild heartily endorses S. 984. At its national convention held in Cleveland in July 1946, as well as at its previous conventions, the guild has adopted resolutions urging Congress to adopt measures to prohibit discrimination by employers and unions against any employee because of his race, religion, color, national origin, or ancestry. While the guild views S. 984 as a highly satisfactory bill so far as it goes, the guild would like to see S. 984 amended so that it might have a broader and more far-reaching effect in four respects:

1. We urge that section 5 (b) be broadened to make it an unlawful practice for any labor organization to refuse membership to any otherwise qualified applicant for membership upon the same basis and terms as are generally applicable to other members without discrimination because of race, religion, color, national origin, or ancestry. By prohibiting only such discrimination as affects employment opportunities, the bill as drafted, fails to accord employees who are members of minority groups the same right to participation in the collective-bargaining process which is normally enjoyed by members of the majority groups. New York has two statutes, one criminal, the other civil, requiring unions to admit persons to membership without such discrimination. Chapter 9 of the laws of 1940 (Civil Rights Law, sec. 43) makes it a misdemeanor punishable by fine or imprisonment for an officer or member of a labor organization to deny a person membership because of race, color, or creed. This statute was held constitutional by the Supreme Court of the United States in *Railway Mail Association v. Corsi* (326 U. S. 88). The reasoning of this decision is in every respect equally authoritative for the validity of a congressional restriction on unions subject to Federal regulation similar in character. The New York Statute Against Discrimination in Employment (Laws, 1945, ch. 118, approved Mar. 12, 1945, sec. 131 (2)), the Massachusetts Fair Employment Act (ch. 368, approved May 23, 1945, sec. 4 (2)), and the New Jersey Antidiscrimination Law (ch. 160, Laws of 1945, approved Apr. 10, 1945, sec. 11 (b)). Likewise make it an unfair practice for unions to refuse membership on a discriminatory basis. There is also statutory provision in Colorado (Colorado Labor Peace Act, senate bill No. 183, approved Apr. 1, 1943, sec. 1 (4)) barring discrimination in membership by unions. We feel strongly that Congress in this act should not stop with half-way measures but should put an end to all bars by unions based on race and also put an end to all segregation and classification practices by which unions deny membership rights to minority groups.

2. We urge that the bill be amended not only to require unions to admit all qualified persons without discrimination but also that the bill include as an additional sanction against unions the provision that any union which so discriminates shall be disqualified from acting as a collective bargaining representative under the National Labor Relations Act or under any other act, so long as its discriminatory membership practices continue. It is obviously unfair and disadvantageous for an employee to have the terms of his employment fixed through collective bargaining and grievance adjustment by a union which excludes him from membership because of race or color. The Pennsylvania State Labor Relations Act (ch. 294 of the Laws of 1937) by section 8 (f) thereof, denies the benefit of that act to any labor organization which denies a person membership because of race, creed, or color. Similarly, Kansas, by chapter 205

of the Laws of 1941, forbids any labor organization which excludes any person from membership because of his race or color to act as a collective-bargaining representative in the State, except those subject to the Railway Labor Act.

3. We urge that the provisions of sections 3 (b) and (c) and 10, which restrict the application of the bill to an employer having in his employ 50 or more persons or a union having 50 or more members employed by an employer who hires 50 or more persons, be stricken. Many industries are organized in small units. The effect of the bill as drawn will be to preserve these industries for employees of majority groups and to exclude entirely from the industry employees of minority groups. We think this is an undesirable result.

4. We urge that the provisions of section 10, insofar as they relate to any person who makes a contract with any agency or instrumentality of the United States, be amended so that instead of empowering the President to make rules respecting the commission of unlawful employment practices by such persons, Congress itself by express provision in the statute shall prohibit all discrimination by such contractors. We can see no reason why Congress itself should not include such a provision in the bill rather than leave the matter up to the President.

These are the only amendments which the guild desires to urge. We do wish to point out the very adequate legal basis upon which the proposed bill rests.

EMPLOYMENT PRACTICES OF THE FEDERAL GOVERNMENT

By reason of the definition of "employer" in section 3 (b) of the proposed bill the act will apply to the employment practices of the United States and every Territory, agency, or instrumentality thereof. This provision rests on the power of Congress to prescribe the qualifications of and the regulations governing the employment of persons by the Federal Government. This power of Congress has been held granted by the provisions of article 1, section 8, of the Constitution, which vests in Congress power "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof," *Butler v. White* (83 Fed. 578, 581-582 (C. C. S. D. N. Y.)); *United States v. Mitchell* (89 Fed. 805, 808-809 (App. D. C.)); *Civil Service Commission* (1871) (13 Op. Atty. Gen. 524). Our whole civil service rests on this power.

EMPLOYMENT PRACTICES OF EMPLOYERS UNDER CONTRACT WITH THE UNITED STATES OR PERFORMING WORK CALLED FOR BY SUCH A CONTRACT

Section 10 empowers the President to prohibit unlawful employment practices by any employer under contract with any agency or instrumentality of the United States or of any Territory or possession of the United States. The constitutional power on which this provision rests has been well stated by the Supreme Court in upholding the constitutionality of the Walsh-Healey Act (41 U. S. C. A. 35), *Perkins v. Lukens Steel Co.* (310 U. S. 113, 127).

"Like private individuals and businesses the Government enjoys the unrestricted power to produce its own supplies, to determine those with whom it will deal, and to fix the terms and conditions upon which it will make needed purchases" (*Citing Atkin v. Kansas* (191 U. S. 207); *Ellis v. United States* (206 U. S. 240); *Helm v. McCall* (230 U. S. 176)).

The Federal power to fix wages and hours of employees of such contractors sustained in the Walsh-Healey Act differs no whit from the power to specify other employment practices such as are prescribed by the proposed bill.

EMPLOYMENT PRACTICES OF EMPLOYERS ENGAGED IN COMMERCE OR OPERATIONS AFFECTING COMMERCE

The provisions of sections 2 (a) and 3 (b) make it clear that one of the constitutional bases upon which the proposed statute will rest is the commerce power. The evidence amply supports the congressional finding set forth in section 2 (a) that discrimination in employment because of race or color "fosters industrial strife and unrest." Racial discrimination has been a prolific source of labor disputes burdening and obstructing commerce. In the railroad industry there were strikes over racial issues stopping transportation in 1900 on the Georgia Railroad (Spero, Sterling D., and Harris, Abram L., *The Black Worker*, Columbia University Press, 1931, pp. 280-290), in 1911 on the Cincinnati, New Orleans & Texas

Pacific Railroad (ibid., pp. 201-202), and in 1919-20 on the Yazoo & Mississippi Valley Road and the Illinois Central System (ibid., pp. 206-208). In more recent years there have been strike votes taken on the railroads over racial issues but strikes have been averted through the intervention of the National Mediation Board (Northrup, Herbert, *Organized Labor and the Negro*, Harpers, 1944, p. 65). In the automobile industry such issues have caused strikes at Dodge, Packard, and Hudson (ibid., pp. 100-201); in shipbuilding at Mobile (ibid., pp. 227-228); in steel at the Bethlehem Sparrows Point plant (ibid., 224); in aircraft at the Curtiss-Wright plant in Ohio (ibid., pp. 207-208); Associated Press, June 6-8, 1944); in the needle trades at Chicago and Kansas City (Northrup, op. cit., pp. 125-126); Spero and Harris, op. cit., p. 838); and in the baking industry (Northrup, op. cit., pp. 31-32). See also Clayton, Horace R., and Mitchell, George S., *Black Workers and the New Unions*, University of North Carolina Press, 1939, pp. 5-6, 78-80, 215-219, 228-230, 252, 280-291, 296, 316-320, 324; Wesley, Charles H., *Negro Labor in the United States*, Vanguard, 1927, pp. 79-80, 237, 253, 257, 261, 280. That the power of the Federal Government in labor disputes extended not merely to the sending in of troops to quell disorder and to the issuing of injunctions to prevent violence but also to the remedying of the causes of such disputes, was established beyond question in the decisions sustaining the constitutionality of the Railway Labor Act and the National Labor Relations Act. Thus, in *Virginian Ry. Co. v. System Federation* (300 U. S. 515, 553), the Court said:

"The power of Congress over interstate commerce extends to such regulations of the relations of rail carriers to their employees as are reasonably calculated to prevent the interruption of interstate commerce by strikes and their attendant disorders."

In *Jones & Laughlin Steel Co. v. N. L. R. B.* (301 U. S. 1, 41), in holding that Congress had power to prevent discrimination in employment on account of union membership or activity by any employer engaged in a business, a "stoppage of" whose "operations by industrial strike" would affect commerce, the Supreme Court said:

"When industries organize themselves on a national scale, making their relation to interstate commerce the dominant factor in their activities, how can it be maintained that their industrial labor relations constitute a forbidden field into which Congress may not enter when it is necessary to protect interstate commerce from the paralyzing consequences of industrial war."

The unfair employment practices listed in the proposed bill are closely analogous to the unfair labor practices which Congress determined in the Railway Labor Act and the National Labor Relations Act should be prohibited because of their disruptive effect on commerce. The Supreme Court in an opinion by Justice Roberts has pointed out that such practices as this bill recites are even more reprehensible than those specified by the labor acts. Thus, in *New Negro Alliance v. Grocery Co.* (303 U. S. 552, 561), the Supreme Court in determining that picketing by Negroes to secure employment was a labor dispute within the Norris-LaGuardia Act (29 U. S. C. A. 113) stated:

"The act does not concern itself with the background or the motives of the dispute. The desire for fair and equitable conditions of employment on the part of persons of any race, color, or persuasion, and the removal of discrimination against them by reason of their race or religious beliefs is quite as important to those concerned as fairness and equity in terms and conditions of employment can be to trade or craft unions or any form of labor organization or association. Race discrimination by an employer may reasonably be deemed more unfair and less excusable than discrimination against workers on the ground of union affiliation. There is no justification in the apparent purposes or express terms of the act of limiting its definition of labor disputes and cases arising therefrom by excluding those which arise with respect to discrimination in terms and conditions of employment based upon differences of race or color."

The paralyzing consequences to interstate commerce which arise from discrimination on account of race differ in no material respect from those arising from discrimination on account of union activities. The effect on interstate commerce of bad racial practices by employers or unions have on numerous occasions required Federal intervention. The Department of Labor, the National Labor Relations Board, and the National Mediation Board, as well as the many wartime agencies such as the War Labor Board, the War Manpower Commission, and the Fair Employment Practices Committee, have each been called upon to adjust labor disputes where the racial practice of the employer or the union or both were so intertwined in the causes of the disputes that any adjustment effected involved primarily a decision by the Federal agency on the policy to be followed by the

employer and the union with respect to racial practices. As these instances show, Congress in passing this bill will not be placing the Federal Government in a field in which it has not been in the past, but will be merely defining for the first time the policy to be followed by Federal agencies in a type of case which they have already been handling without congressional guidance.

Illustrative of the cases in which the services of the Department of Labor have been used to settle such a dispute is *Matter of Layno & Bowler, Inc.*, arbitration decision by Whitley P. McCoy, awarded March 31, 1942. This case was originally filed with the National Labor Relations Board, being case No. XV-C-750 on their docket, but was disposed of by that Board by getting all of the parties to agree to abide by the decision of an arbitrator to be appointed by the Director of the United States Conciliation Service of the United States Department of Labor. The dispute arose over the fact that the AFL union had a closed-shop contract with the employer, which however, had never been enforced in respect to some twenty odd Negro employees whom the AFL had refused to admit to membership. Several years after the entry into the closed shop, several of the Negro employees joined a CIO union. The AFL then, without any notice or request to the employer to discharge the Negro employees, locked the gates of the plant and prevented the Negroes from going to work. This resulted in substantially curtailing the operations of the plant. Upon the intervention of Federal officials the employees were permitted to return to work. Thereupon the AFL demanded that the closed shop be observed and that all Negroes who did not join it be fired and threatened to strike unless their demand was met. As a result 4 of the Negroes joined the AFL and some 20 others were discharged. The arbitrator required the employer to restate and give 2 weeks' back pay to such of the Negro employees as should apply for reinstatement and express a willingness to abide by the terms of the closed-shop agreement.

Illustrative of the cases handled by the National Labor Relations Board involving such issues is *Matter of Glamorgan Pipe and Foundry Co.* (12 L. R. R. 341), in which an employer discharged two white union members because they tried to start a strike when a colored employee was assigned to work as a crane operator. The question presented to the Board was whether the efforts of the two discharged white union employees to start a strike for such a purpose were concerted activities protected by the National Labor Relations Act. The Board issued a complaint charging that the employer by discharging the two white union employees violated the National Labor Relations Act. The trial examiner, after hearing the evidence, found the facts as described here but ruled that efforts of union members to require their employers to discriminate against a worker on account of race were not protected by the National Labor Relations Act. The case was settled without a decision by the Board. (For a collection and discussion of other such cases handled by the National Labor Relations Board, see Northrup, op. cit., pp. 244-247.)

Illustrative of the intervention of the National Mediation Board in racial issues is the role it played in getting the railroads to sign the southeastern agreement, under the terms of which more than a dozen signatory railroads have agreed to follow a discriminatory practice so as to hire and assign new runs to white firemen and not only bar further Negroes from being hired but to displace Negro firemen many of whom have decades of service on the railroad. The refusal of the railroads to acquiesce in the terms of this agreement when proposed by the Brotherhood of Locomotive Firemen led to the intervention of the National Mediation Board which used its services to persuade the railroads to agree to the union's discriminatory proposal. (For a full description of the activities of the National Mediation Board in the field of race relations see Northrup, op. cit., pp. 50-57, 80-101.)

No one has ever questioned that in each of the above cases, and the dozens more of the same kind which they have handled, the Federal agency involved was acting within the scope of Federal power to adjust labor disputes which threatened the commerce of the country with disruption. The compelling sweep of events make it too late to retrace our steps and say that racial employment practices are not within Federal power. Instead, events have made it imperative that Congress lay down a policy to be followed in this field.

In addition to the ample basis for Federal jurisdiction which arises from the tendency of racial employment practices to cause labor disputes, the bill also rests upon the findings that discrimination in employment because of race and color "forces large segments of our population into substandard conditions of living" (sec. 2 (b)). This finding is amply supported by the evidence. Indeed it is a well-recognized fact that racial discrimination results in depressing

wage rates not only for minority groups but for all workers. See for instance Spero and Harris, op. cit., pp. 33, 178, 181, 286-294; Patterson, S. Howard, McGraw-Hill, 1935 p. 71; Johnson, Charles S., *The Negro in American Civilization*, Henry Holt, pp. 55-59; Taft, Philip, *Economics and Problems of Labor*, Stackpole, 1942, p. 325.) This ground likewise affords an established basis for Federal regulation. The cases upholding the power of the Federal Government to bar from interstate commerce convict-made goods (*Kentucky Whip & Collar Co. v. Illinois Central Railroad Co.*, 200 U. S. 334) and the power similarly to bar goods made at substandard labor conditions (*United States v. Darby*, 312 U. S. 100), in their holdings and reasoning recognize in Congress a power comprehensive enough to include the barring from interstate commerce of goods made under discriminatory racial practices in employment. Instead of barring such goods, Congress may make it mandatory that employers whose activities affect commerce, because their products or services compete with those of producers in other States, do not follow practices which depress wage rates.

EMPLOYMENT PRACTICES OF UNIONS WHOSE MEMBERS ARE EMPLOYED BY EMPLOYERS COVERED BY THE BILL.

Section 3 (c) makes the bill applicable to any labor union which has 50 or more members in the employ of one or more employers covered by the bill. The same constitutional provisions which afford the bases for congressional regulation of the racial practices of each of the types of employers embraced in the bill likewise afford the basis for requiring the unions composed of employees of such employers to follow consistent racial practices. An examination of the authorities cited above in connection with strikes shows that the labor disputes burdening commerce which arose from racial incidents involved in most instances the racial practices of unions as well as of employers. The congressional power to remedy such burdens to commerce applies equally to employers and to unions.

THE CHARTER OF THE UNITED NATIONS AFFORDS ADDITIONAL CONSTITUTIONAL BASIS FOR THE PROPOSED ACT

Section 2 (c) of the bill recites that the act is enacted "as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote 'universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion'". The guild heartily endorses the adoption of the act as part of our fulfillment of our international obligations. The guild also believes that the provisions of article 56 of the Charter, which is quoted in part in section 2 (c) of the proposed bill, as a treaty obligation of the United States provides a firm constitutional basis for the proposed statute. Since article VI of the Constitution of the United States provides that "all treaties made or which shall be made, under the authority of the United States shall be the supreme law of the land" the United States Senate by ratifying the Charter of the United Nations (the Senate ratified the Charter as a treaty on July 28, 1945, 91 Congressional Record 8189-8190) raised to the stature of the supreme law of the land the obligation of the United States to "promote respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race." It is generally accepted that one of the human rights and fundamental freedoms referred to by the Charter is the right to employment. See *Statement of Essential Human Rights* by a committee appointed by the American Law Institute, printed in the *Annals of the American Academy for Political and Social Science*, January 1946, pages 22-24.

The Supreme Court of the United States has recognized that by reason of article VI of the Constitution, Congress has full power to enact all statutes appropriate to carry out treaties even if prior to the adoption of the treaty, Congress would have lacked constitutional power to deal with the matters encompassed by the statute. Mr. Justice Holmes, speaking for a unanimous Court in *Missouri v. Holland* (252 U. S. 416, 433, 434), stated:

"It is obvious that there may be matters of the sharpest exigency for the national well-being that an act of Congress could not deal with but that a treaty followed by such an act could, and it is not lightly to be assumed that, in matters requiring national action, 'a power which must belong to and somewhere reside in every civilized government' is not to be found. . . . No doubt the great body of private relations usually falls within the control of the state, but a treaty may override its power."

THE MEANS WHICH THE BILL EMPLOYS TO REMEDY DISCRIMINATION MEETS THE
REQUIREMENTS OF DUE PROCESS OF LAW

It having been demonstrated that long years of discriminatory racial practices by employers and unions has led to recurring labor disputes burdening commerce, the prescription of a program of nondiscrimination by employers and unions is clearly an appropriate means for Congress to adopt to put an end for all time to come to the ills we are at the present suffering because of the failure to follow such a program in the past. The power of Congress to interfere with an employer's right to hire or fire whomsoever he wished for whatsoever reason he wished has already been recognized. The public interest in ending discrimination against union members was held sufficient justification to restrict the employer's former unrestricted powers of running his business as he pleased (*Texas & New Orleans Ry. v Brotherhood*, 281 U. S. 548; *Jones & Laughlin Steel Corp. v. N. L. R. B.*, 301 U. S. 1, 43-45). We believe the public interest in ending discrimination against persons because of race, creed, color, national origin, or ancestry, justifies a like restriction on the employer's powers to run his business as he sees fit.

The remedial provisions of the act, providing for reinstatement with back pay, likewise find full support in the above-cited and other decisions sustaining and applying analogous provisions of the Railway Labor Act and of the National Labor Relations Act.

NATIONAL LAWYERS GUILD.

ROBERT W. KENNY, *President*.

ROBERT J. SILBERSTEIN, *Executive Secretary*.

JUNE 27, 1947.

STATEMENT OF HARRY E. LEONARD, BUSINESS MANAGER, LOCAL UNION B-100, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS--RESOLUTION IN SUPPORT OF
FAIR EMPLOYMENT PRACTICES BILL (S. 984-H. R. 2824)

Whereas discrimination in public and private employment on the grounds of race, creed, color, national origin, or ancestry, with consequent denial of job opportunities to large groups of inhabitants of this country foments strife, creates unrest, disorders, and group tensions, and substantially and adversely affects the general welfare and good order of the country; and

Whereas such job discrimination tends to create and breed vice, degeneration, juvenile delinquency, and crime, thereby causing grave injury to the public safety, general welfare, and good order of this country, and endangering the public health thereof; and

Whereas experience has proven that legislative enactments prohibiting such job discrimination remove some of the sources of strife, unrest, poverty, disease, juvenile delinquency, and crime, and would directly promote the general welfare and good order of our country: Now, therefore, be it

Resolved, That the Electrical Workers Local Union B-100, International Brotherhood of Electrical Workers, representing 1,047 members, hereby unqualifiedly endorses and urges the passage of the FEPC bill, Senate file 934, and House bill 2824, and further urges the Minnesota delegation in Congress to exhaust every energy and means toward accomplishing this end.

LOCAL UNION B-100, I. B. E. W.

By HARRY E. LEONARD,

Business Manager.

STATEMENT OF THE LIBERAL PARTY OF NEW YORK STATE, JUNE 30, 1947

The Liberal Party of New York asks this committee to support, without reservation, S. 984, and to send to the United States Senate before adjournment or recess in July, your recommendation for positive action on the part of that body.

It should be evident to this committee that discrimination by interstate corporations, individuals engaged in interstate commerce, or by States receiving Federal aid, against American citizens or other inhabitants of the United States because of their race, color, religion, national origin, or ancestry is a matter of concern to the Federal Government. It should be evident that such discrimination foments domestic strife and unrest, endangers the tranquility of the economic structure, and threatens the rights and privileges of inhabitants of this Nation.

We of the Liberal Party maintain that the denial of equal employment opportunities in our society, the consequent failure to utilize the productive abilities of the persons being discriminated against, tends to lower the productive capacities of industry, and deprives large sections of the population of their hard-won opportunities to maintain even the barest, minimum standards of living. This, in turn, demoralizes the individual, gives totalitarian groups fertile seeds to sow, increases public relief rolls, and makes for group conflicts. Its subsequent danger to public safety and welfare should at once be recognized. That the continuance of such a policy makes for dangerous tensions for our country should be conceded by even the most fair-minded critic and opponent of this bill. During a period of recession or depression, race conflicts would greatly increase.

That this bill can work in practice is evident from the fact that Executive Order 9340, issued on May 27, 1940, by President Roosevelt, which set up the wartime Fair Employment Practices Commission, operated during a period in our history when the need for unity was at its greatest—and operated successfully. Persons of all colors, religions, national ancestries fought side by side, died side by side, won side by side. Persons of all colors, religions, national ancestries worked side by side in the factories which help forge the weapons of war and victory.

Let those who would castigate totalitarian governments where freedom of opportunities sorrowfully do not exist, and who equally castigate those who demand passage of this bill, truthfully and candidly ask themselves whether an official or unofficial policy which prevents a person from contributing to his nation's welfare without the shackles of discrimination does not in fact lead to a violation of the basic freedoms of humanity.

We cannot contribute large sums of money and men abroad successfully to annihilate and prevent the spread of totalitarianism while practicing at home a policy which completely negates the purposes of our foreign policy. It is wholly inconsistent with the fundamental rights of man as set forth in our Nation's early and official documents, to permit within our borders racial discrimination in employment.

This bill, insofar as discrimination in employment is concerned, merely reiterates the laws of our forefathers. It merely states in legal language what every politically unfettered nonlegal mind knows; that "Democracy is that form of society, no matter what its political classification, in which every man has a chance and knows that he has it."

Late in 1941, we were forced to defend our homes. In the immediate future we might well again, if the National Legislature is not wise enough to enact S. 984, be forced to defend our political faith from the hateronger, or from the political representatives of a foreign country who will be able to capitalize on our weakness and failure to practice at home what we preach abroad—complete and unequivocal democracy and economic, social, and cultural opportunities for all peoples.

The truth is harsh: American citizens are being discriminated against by other American citizens. The fact is cold: Something can be done to rectify this unmitigated insult to our country's principles. The bill being surveyed by this committee can, if enacted into law, weaken the arguments of those powers who, at a diplomatic conference table, will say to our representatives, as undoubtedly they have: "How can you speak of justice when you withhold the dispensation of economic justice to your own people?" If this bill is enacted into law, a multitude of Americans will have the opportunity to create, to build, to make the United States a nation both feared by those who would wish us harm, and an inspiration for those who seek a pattern on which to base their own governments. More than that, we will continue to be an inspiration to those who continue to fight for freedom, for justice both moral, spiritual, and economic. To do less would be negating our promise to those who gave their lives in World War II—a promise that they were dying, that they were bleeding so that man, the free world over, could walk the streets without the fear of racial, religious, or economic discrimination; so that those who speak with the tongues of bigots would be forever silenced. We have liberated nations; we have freed men and women and children of all religious and political faiths from concentration camps. Yet American citizens linger in industrial concentration camps which say: "You cannot work here if you are of a particular religious faith, if you have a skin other than that of the owner of this plant, if you do not have a grandmother or great-grandmother born in this country."

We ask this committee to liberate, by enactment of S. 984, those men and women of all religious faiths, of all colors and national ancestries, who are, for no fault of theirs, deemed second-class citizens. The bill does not require

great armies; it does not require huge expenditures of funds; it merely requires that our democratic conscience be put into immediate and forceful practice; it merely requires that the principles upon which this Nation were founded are upheld. To give each man and woman willing to work the opportunity to do so without an obstacle or shackle of discrimination because of race, color, or national ancestry is merely reaffirming that this indeed is "a nation indivisible, with liberty and justice for all." It is a reaffirmation that in the United States we have beaten our prejudices into plowshares, and that we do not fear the religious faith, or the color of the skin, of the man who tills the soil or the woman who spins the thread.

To pass S. 984 is reaffirmation that in America a man's right to work is part of his right to worship as he pleases, to read what he pleases, and to speak the truth without fear. For these reasons, in our historic liberal tradition, we support and urge passage of S. 984.

STATEMENT OF MERCHANTS AND MANUFACTURERS ASSOCIATION, LOS ANGELES, CALIF.

S. 984 is based on the fallacy that it is possible to legislate tolerance. Tolerance is an individual state of mind. Any attempt to control it by punitive regulation merely magnifies intolerance. The only sensible approach is through the educational process. The creation of a Federal commission to regulate tolerance will result in the enlargement of the problem, and will increase race- and color-consciousness. Actually such a law places minority groups in a preferred status, which can only result in deep resentment on the part of other workers. This will inevitably result in a deep cleavage among the workers which does not now exist.

There is no need for the enactment of S. 984. In our free economy, minority group workers have made great progress in the field of employment, as well as in other fields. During the recent war period, minority-group workers were able to demonstrate their ability, and have firmly entrenched themselves on the basis of that ability. This is the only sound approach, and it will be a cruel error to jeopardize the recent forward steps made by minority-group employees by arousing antagonisms and prejudices through bureaucratic interference.

A measure of this sort will create no new jobs, nor would it in any way help our production or productivity—the basis of our material welfare.

The best way to create a national hatred for a particular food would be to pass a law requiring everyone to eat it daily. It is a very natural American reaction. This reaction was well demonstrated during prohibition when Congress sought to force regulation of the conduct of people on a moral issue contrary to the desires of the majority. It just didn't work.

There is no demonstrated need for this law, nor for the huge Federal bureaucracy which would be needed to attempt its enforcement. The Federal FEPC operated for 18 months in 48 States during wartime, backed by the wartime power of the President. It heard only 6,855 cases. Of these, 3,400 were immediately dismissed as not having grounds for complaint. If the crusading FEPC could find only 3,455 cases in 48 States in 18 months among more than 50,000,000 workers, discrimination cannot be so terribly dangerous to our economic life as to justify the creation of a new Federal bureaucracy.

Actually, the proposed measure will place in jeopardy the job of every worker, because claims of discrimination rest on intangible factors. If we may judge by experience, the proposed FEPC would undoubtedly operate along the same lines as the NLRB, where a discharged worker need only show that he is a union member to have the burden shift to the employer to prove that the worker was not discharged because of his union membership. The proposed FEPC would undoubtedly place this same burden on employers with respect to discharged minority workers. The fear of employers to deal with minority employment problems in a normal manner would create great antagonism on the part of other workers.

Lack of harmony among employees in a plant inevitably results in lower production. Majority-group employees would retaliate in many ways if the Government would favor minority groups. S. 984 will create more discrimination than it will prevent. It should not be enacted.

LOS ANGELES, CALIF., June 11, 1947.

LETTER OF CLARENCE MITCHELL, LABOR SECRETARY, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, WASHINGTON, D. C.

JUNE 28, 1947.

Hon. FORREST C. DONNELL,

*Chairman of Subcommittee on Labor and Welfare,
Washington, D. C.*

DEAR SENATOR DONNELL: During the testimony on Senate bill No. 984, Senator Allen Ellender, of Louisiana, questioned several witnesses, including President William Green, of the American Federation of Labor, on the Point Breeze strike which involved employees of the Western Electric Co. This plant is located in Baltimore, Md.

During my service with the War Production Board and the Committee on Fair Employment Practice, I dealt with the management of the Western Electric Co. in New Jersey and Baltimore on the subject of employing colored persons.

It is entirely wrong to say that the Fair Employment Practice Committee ordered management to take down signs or partitions, as was stated by Senator Ellender.

It is clear, of course, that in any decent place of employment all individuals should have equal access to whatever facilities are available. However, in this case, management took a position which was as follows:

"Frequently it was necessary to transfer employees and equipment between departments and buildings. In order to have a flexible working force and to make certain that it did not discriminate in doing this, the company felt that it was necessary to have facilities which would be available for use by employees, regardless of race."

Management's position was explained to the War Labor Board at a panel hearing on November 11, 1943, by Mr. C. C. Chew, who was then superintendent of industrial relations for the Western Electric Co.

I think it should be noted that the city of Baltimore at one time required by a municipal ordinance that separate facilities be provided for colored and white persons working in industrial plants. This ordinance had been repealed on February 13, 1942, because it was found that it hindered the full utilization of the labor force in the community.

The Western Electric Co., which prior to the war had not employed a large number of colored persons, had established some separate facilities for colored truck drivers who occasionally came to the building. When it embarked on its program of making an intelligent and fair use of all available persons, it followed what certainly is a commendable practice and ended the separate facilities.

There are other factors in this situation which are not necessarily relevant at this point. However, if you want me to do so I will be glad to discuss the entire situation with you or any other member of the committee.

Incidentally, I believe that I should point out that the situation is fully explained on page 150 of the hearings before a subcommittee of the Committee on Appropriations, United States Senate, June 1945, Seventy-eighth Congress.

Sincerely yours,

CLARENCE MITCHELL.

STATEMENT OF THOMAS RICHARDSON, INTERNATIONAL VICE PRESIDENT, UNITED PUBLIC WORKERS OF AMERICA, CIO

The United Public Workers of America, CIO, joins with the rest of CIO in supporting S. 984, which would provide the United States with a permanent fair-employment practice law. The job discrimination against minority groups has become a serious and dangerous infection which threatens the very health of our Nation. Such discrimination is totally out of keeping with the basic principles of the United States Constitution and strong Federal legislation which takes cognizance of this fact and provides a proper remedy will protect the health and strength of our democracy.

Particularly are we interested in the passage of Federal legislation which would serve to eliminate the widespread practices of discrimination against minority groups which are at present being carried on in the hiring, promotions, and lay-off of Federal Government employees. We believe that S. 984 would correct much of the racial discrimination in Government personnel practices, and would thus aid the United States Government, as an employer, to set an example of justice and fair play in its personnel practices. We believe that such

an example set by the Federal Government would give added weight to the various statements of President Truman and other Government officials who have from time to time condemned the practice of discrimination in the field of employment. The coverage of agencies and instrumentalities of the United States or of any Territory or possession thereof, as is provided in S. 984, would make a major contribution in helping the Federal Government to perform its role as a model to all other employers.

The policy of fair employment practice for Government as an employer is not new. Rule 1 of the Civil Service Rules and Regulations provides that appointments to jobs in the Federal Government be made on the basis of merit alone with no discrimination because of color, race, religion, or place of national origin. It has been impossible, however, for the Civil Service Commission to guarantee the application of this policy because it has lacked machinery for rapid investigation and adjudication of charges of discrimination in Government hiring. S. 984 provides for a Commission which has the right to investigate charges of discrimination in Federal employment and to make the proper recommendations to the President of the United States for the correction of the problem wherever it may exist. This provision if enacted into law will narrow the possibility of continuing discrimination in Federal employment.

Despite existence of rule 1 in the Civil Service Rules and Regulations and despite the various statements against discrimination made by the President, many shocking and disturbing cases of discrimination have occurred and are now occurring in the employment practice of Federal Government without corrective action being taken. As an example of one type of discrimination found in Federal employment, I cite the case in which the personnel office of a liquidating war agency, which in attempting to place its employees with more permanent Government agencies, was informed by 10 agencies of the Federal Government that they had clerical jobs for white applicants but none for Negro applicants. These agencies were:

Bureau of Standards and the Patent Office in the Department of Commerce. Bureau of Internal Revenue in the Treasury Department. Public Health Service in the Federal Security Agency. Public Buildings Administration in the Federal Works Agency. Alien Property Custodian in the Justice Department. Navy Department. Government Printing Office. Office of Army Security in the War Department. State Department.

Despite the fact that the United Public Workers of America revealed this condition to the Civil Service Commission, the White House and the President's Committee on Civil Rights, no corrective action has been taken and as a matter of fact agencies not in the above list have begun to follow the example of discrimination. The original 10 agencies alone represent about half of the agencies of the Federal Government.

Or as another example of the kind of discrimination which is encountered in Federal Government employment practices, I cite the case of four Negro Government workers of several years' experience, all with very good or excellent efficiency ratings who were referred by the personnel office of their agency, which was liquidating, to the Department of Agriculture. After having been interviewed by the personnel office of the Department of Agriculture, they heard nothing with regard to employment by that agency. Some time later one of the applicants received in an officially franked envelope of the Department of Agriculture the application blanks of herself and three other Negro job applicants. Attached to these blanks was a memorandum on official United States Government stationery which was obviously a note exchanged between personnel officers in the Department of Agriculture. The note stated, "attached are the applications I talked to you about. Except for color they look like good girls." The note was dated January 27, addressed to "John," and the words "except for color" underlined in red crayon. The signature on the memorandum was illegible. This situation was revealed to the proper Government officials but to date none of the four girls have yet been hired by the Department of Agriculture and the discrimination which they suffered was obviously but a reflection of a firm policy on the part of that Government agency.

I cite for you another example which concerns the Bronx office of the Bureau of Internal Revenue which had a staff of over 2,000 employees performing essential work in the Government's tax program. Ninety percent of these employees were Negroes. The head of that agency, a Mr. Ernest Campbell, stated prior to the giving of the examinations that he would get rid of most of the Negro employees. The employees demanded that they be retained on the basis of merit and argued that their method of retention should be the same as for any other

Government workers; that is, that the marks which they made on the civil-service examination should be the basis upon which they were retained. The administrator stated that only a few of them would be able to pass the civil-service examination. However, when examinations were given and graded, it was found that large numbers of these employees passed the examination. Immediately thereafter the Treasury Department moved the office from New York, dismissed all but a few white employees, and set up the office in Kansas City, Mo. (It was claimed the move was unrelated to the question of retention of Negro workers, but the sequence of events is as I have described.)

The above-mentioned cases are but examples of the type of discrimination which is now being practiced by the United States Government as an employer. Each case merely represents scores of other similar cases in which Negroes, Jewish workers, Catholics, and workers of Spanish descent are being discriminated against. The United Public Workers of America, CIO, supports S. 984 because this bill would provide for an apparatus which would have the right to investigate such cases and to make the proper recommendation to the President for corrective action. Without such apparatus, the pattern of discrimination against minority groups by Government agencies will grow with a resultant harm to the efficient and economic operation of the various Government agencies and to the whole problem of achieving friendly race relations in the Nation as a whole.

The United Public Workers would like to suggest that the coverage of this bill be extended to include all employees whose pay is derived entirely or in part from moneys appropriated by the National Congress. Such coverage would then extend the benefits of this legislation to the many State, county, and city aid programs being financed, in part at least, by the Federal Government, and would include not only Territories of the United States but activities which are being conducted by the United States Government on leased areas such as the Panama Canal Zone.

We therefore urge that the Senate Committee on Labor and Public Welfare report favorably and swiftly on S. 984, and that the committee use its influences to secure positive action on this legislation in the United States Senate. Our members have watched the development of this issue for some time and it is with real expectations that we present our opinion to this committee, hoping that rapid action will occur as we continue to watch the fate of this bill. The malpractices which the legislation is designed to correct can, if allowed to fester, infect our national life to the point where no strong bond exists to hold the great American people together. The principle of Government of, by, and for the people cannot be qualified. A Government of, by, and for all of the people except minorities would be a tyranny. And the land of opportunity cannot deny opportunity to some without eventually reducing the opportunities for all.

LETTER OF CHARLES E. SANDS, INTERNATIONAL REPRESENTATIVE, HOTEL AND RESTAURANT EMPLOYEES' INTERNATIONAL ALLIANCE AND BARTENDERS' INTERNATIONAL LEAGUE OF AMERICA, WASHINGTON, D. C.

JUNE 10, 1947.

SENATE COMMITTEE EDUCATION AND LABOR,
Capital City.
 (Attention Mr. Rodgers, clerk.)

DEAR MR. RODGERS: The attached resolution passed by our recent convention which was held in Milwaukee, Wis., April 4 to 12, 1947, was reported to the convention by committee and passed without dissenting vote.

Therefore please insert in the records that our International union wholeheartedly approved of the establishment of a National Fair Employment Practice Act. Our convention was attended by 1,156 delegates representing over 400,000 workers from all over the United States of America.

Very truly yours,

CHAR. E. SANDS.

TO ENACT A FAIR EMPLOYMENT PRACTICES ACT—RESOLUTION NO. 110, SUBMITTED BY DELEGATES OF LOCAL NO. 110, SAN FRANCISCO, CALIF.

Whereas during World War II the late President established a Fair Employment Practices Commission thereby recognizing the right of all workers to employment without discrimination and making possible the most effective contribution by all American workers to the production essential for the winning of the recent war against fascism and nazism; and

Whereas this policy of the late President Roosevelt has been shamefully abandoned by the present Federal administration and by the present and previous Congresses; and

Whereas the concept of no discrimination in the field of employment is consistent with the finest ideals of American democracy; and

Whereas our international union has traditionally been in the forefront of the labor movement in adhering to and practicing the policy of no discrimination in the field both of organization and of employment; now, therefore, be it

Resolved, That this Thirty-first Convention of the IRECLA and BILA declares itself for the enactment of a Fair Employment Practices Act as a national policy on the part of our Federal Government; and be it further

Resolved, That the legislative department of this international union stand instructed to work for the enactment of such legislation.

STATEMENT OF ARTHUR SCHUTZEL, STATE EXECUTIVE SECRETARY, AMERICAN LABOR PARTY, NEW YORK, N. Y.

The American Labor Party respectfully urges this subcommittee of the Senate Committee on Labor and Public Welfare to report out favorably S. 984, a bill to establish a national commission against discrimination in employment and to outlaw unfair employment practices.

The American Labor Party notes the special significance of the introductory sections of the bill.

We refer to section 2 (b) and section 2 (c) which read, respectively, as follows:

"SEC. 2. (b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

"SEC. 2. (c) This act has also been enacted as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

By declaring that the right to employment without discrimination is a Federal civil right, section 2 (b) affirms a basic right of democracy. Without this right, effectively enforced, other rights become empty and academic; so long as an individual can be denied the opportunity to earn a living because of discrimination on the ground of race, creed, color, or national origin, so long is the very meaning of democracy denied and thwarted.

Moreover, by citing the obligations of the United States under the Charter of the United Nations as one of the constitutional and moral justifications for the enactment of the bill, section 2 (c) renders timely recognition of the role of the United Nations and of America's duties as a member nation.

S. 984 has a persuasive precedent for its purposes and provisions. The President's Fair Employment Practice Committee, which was created by executive order of President Roosevelt, demonstrated the effectiveness of such legislation.

In its first report, covering the period from July 1943 to December 1944, the FEPC stated: "At critical points in the production program, minority groups have played an essential role. Every twelfth American in prime war industries is a Negro. In Federal Government service every eighth worker is a Negro." The other minority groups showed a corresponding increase in employment, as a result of the activities of the FEPC, affecting 5,000,000 Jews, 20,000,000 Catholics, 3,000,000 Americans of Mexican and Hispanic origin and 11,000,000 persons of foreign birth.

In its final report, the FEPC recommended permanent legislation against discrimination in employment, and pointed out that a postwar survey of employment practices in 11 American cities indicated a sharp increase in discrimination. The American Labor Party vigorously endorses the conclusion of the FEPC that "No device will solve the problem short of the enactment by Congress of Federal fair employment legislation."

The defense and wartime civilian employment of Negroes increased by approximately 1,000,000 jobs between April 1940 and April 1944, according to the report of the United States Department of Labor issued January 1945. Employment of Negro men in the same period rose from 2,900,000 to 3,200,000; Negro women from 1,500,000 to 2,100,000.

The magnificent contribution which members of minority groups made to war production in the struggle against fascism is typified by the achievement of Charles H. Fletcher. Mr. Fletcher was the first Negro war worker to win the War Production Board certificate of industrial production merit. Mr. Fletcher was a welder in the Moore Dry Dock yards at Oakland, Calif. He worked out a device to use in welding insulation pins to deckheads. This device was adopted by the entire war shipbuilding industry to speed up tack welding by 400 percent, thus rendering an outstanding service to the war effort.

The example of Mr. Fletcher can be multiplied hundreds of times in the records of members of all minority groups during the war who were afforded the opportunity to participate in civilian production because of the establishment of the Fair Employment Practice Committee.

The FEPC was an essential factor in winning the war against fascism. Today, a national commission against discrimination in employment is equally essential to protect and extend democracy's gains and to realize those goals for which the war was fought.

The American Labor Party respectfully submits for consideration of this subcommittee one important amendment to the proposed bill S. 984.

You will note that whereas the FEPC bill introduced in the Seventy-ninth Congress (H. R. 2232) included a provision requiring that an antidiscrimination clause be included in all Government contracts, S. 984 omits such provision.

The American Labor Party believes that unless such a provision is included in the bill, it will leave a vast area of discrimination in employment untouched and unaffected in terms of every day industrial practices.

President Roosevelt recognized the importance of such a provision by including it as the first paragraph in his Executive Order 9340, which stated:

"All contracting agencies of the Government shall include in all contracts and in all subcontracts negotiated or renegotiated a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin."

During the war a midwestern telephone company refused to enter into any Government contract which contained the required nondiscrimination clause. The Comptroller General rendered an opinion that the provision in Executive Order 9340 which required that all Government contracts contain a nondiscrimination clause was "intended only as a directive" rather than as a "mandate." The FEPC appealed the Comptroller General's opinion directly to President Roosevelt. President Roosevelt in a letter addressed to Attorney Biddle, dated November 5, 1943, made a clear-cut and vigorous reply in which he stated that he wished "to make it perfectly clear that these provisions are mandatory and should be incorporated in all Government contracts. The order should be so construed by all Government contracting agencies."

It is true that S. 984 authorizes the President to issue regulations concerning inclusion of a nondiscrimination clause in Government contracts. However, the American Labor Party urges that such requirement be inserted directly and specifically in the very language of the statute rather than leave it up in the air for future regulations which may or may not be issued.

The American Labor Party urges prompt passage of S. 984 with the amendment suggested above. No isolated FEPC legislation can by itself meet the problem of discrimination in employment. The FEPC bill is essential as part of an integrated program which must include effective planning for full employment, together with legislation for real rent control, a long-range housing program, an increase in minimum wages under the Fair Labor Standards Act, a Federal antilynch bill, and increased social-security benefits.

The American Labor Party thanks this subcommittee for the opportunity to submit this statement for the record of its hearings.

LETTER AND STATEMENT OF HON. LEWIS R. SCHWELLENBACH, SECRETARY OF LABOR

AUGUST 12, 1947.

HON. ROBERT A. TAFT,
United States Senate, Washington, D. C.

DEAR SENATOR TAFT: This is with further reference to your request for my comments on S. 984, a bill "To prohibit discrimination in employment because of race, religion, color, national origin, or ancestry."

I regret that I have not been able to take advantage of your invitation to appear before the subcommittee of the Committee on Labor and Public Welfare which has had S. 984 under consideration. I am, however, transmitting herewith a statement of my views concerning the bill.

It is requested that this statement be inserted in the record of hearing on S. 984 in lieu of testimony. I have taken the liberty of assuming that it will not be necessary for me to submit a separate report in compliance with your letter of March 31.

The Bureau of the Budget advises that this report is cleared without commitment as to the relationship of each specific provision of S. 984 to the President's program.

Yours very truly,

L. B. SCHWELLENBACH,
Secretary of Labor.

I am glad of this opportunity to express my views on S. 984, the proposed Federal antidiscrimination bill.

The principle of freedom is fundamental in the American system. Our national history is in a sense the story of a gradual but steady progress toward the realization of the great ideals proclaimed in our Declaration of Independence. The proposal you have before you today represents the crystallization of decades of progress and is another significant step in a long historic development to make America practice what its founders so nobly preached.

Freedom, in terms of the American system, has many aspects. There is the freedom of enterprise which is at the heart of economic system and without which we could not have achieved the high level of productivity which won victory for us in World War II. There are also political, religious, and social freedoms which assure us the right to speak out our minds, to worship as we will, to assemble, to petition and to receive equal and nondiscriminatory treatment by courts. These freedoms are basic in our American way of life.

Under modern industrial conditions, however, the freedom to earn a livelihood for oneself and one's family without being discriminated against on the accidental and irrelevant basis of race, religion, color, national origin, or ancestry is no less important than those more generally recognized and accepted freedoms. The vast majority of our people depend upon worker's wages and salaries for their livelihood. Denial of the right to be free from discrimination in employment deprives the average bread-winner of genuine opportunity to enjoy rights in the protection of which Americans have fought and died.

It is not honest to profess principle and to act otherwise. The United States has an obligation under article 55 of the Charter of the United Nations which requires the member States to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion," to take appropriate Federal action to end discrimination in employment. The existence of discrimination in employment weakens the moral standing of the United States among the peoples and nations of the world. Enactment of this bill will do much to assure other peoples that it is our fixed national policy to afford persons of all colors, religions, races, national origins, and ancestries an equal opportunity to earn a living and that this policy is to be enforced, when necessary, by legal sanctions.

It is important to realize, I think, that discrimination in employment has the effect of subjecting to severe economic disadvantage large and significant segments of our population. Prejudice against minorities results in neglected areas, social problems, increased relief appropriations. The Bureau of Labor Statistics has computed from census data that in 1939 white wage and salary workers had an average income of \$1,134, while Negroes in this class received only \$470. It is not uncommon in these times of relatively full employment to see jobs going begging—and production lost—because these jobs are not open to certain groups in our population. Discrimination in employment constitutes a constant threat to wage levels adequate to sustain our American standard of living and levels of purchasing power and production adequate to maintain prosperity under our American free-enterprise system.

Discrimination based on color is not, of course, the only type of discrimination in employment with which, as a matter of Federal policy, we need to be concerned. There is discrimination in employment because of religion—large groups of our people find employment opportunities reduced or barred to them because of their religion. There is also discrimination in employment because of race and because

of national origin or ancestry. These discriminations, too, are serious in their effects on wages, purchasing power, and production. I shall in this statement, however, discuss principally the effects of discrimination based on color since the Negro is among the largest of our minority groups affected and statistical data are available with respect to this group which are not available for other groups.

There is a marked difference in earning power as between Negroes and other workers in nearly every industry where they are employed in substantial numbers. To take but one example, in 1943 white workers employed in blast furnaces in Pennsylvania, Ohio, Illinois, Indiana, and Michigan had a median annual wage of \$2,330, while Negro workers received \$2,080. Although 75 percent of the white employees thus employed received over \$2,000, only 54 percent of the Negro workers received this much. In the State of Alabama this median annual wage for white male workers in that year, in that industry, was \$2,078; for Negro employees it was only \$1,442. Although 54 percent of the white workers in blast furnaces in Alabama in 1943 received over \$2,000 annually, only 9 percent of the Negro employees earned this much.

Negroes usually have to take the least-desirable and lowest-paying jobs. In the occupations where education and training are requirements, such as professional work and the crafts, there are relatively fewer Negroes. According to the census of 1940, 5.9 percent of all white male workers were professional or semiprofessional, as against 1.8 percent of all employed Negroes. The occupations of craftsmen, foremen, and kindred workers included 15.6 percent of the white male workers and 4.4 percent of the Negroes; managerial occupations included 1.3 percent of the Negroes, but 16.6 percent of the white males; 7.5 percent of white workers were laborers, but 21.2 percent of the Negroes were in this lowest-paid classification.

During the war years many Negroes left the farms and sought employment in industry, but the general occupational distribution was not changed materially. Even though our present high level of employment means that many more Negroes are in skilled and semiskilled jobs, when lay-off time comes they are the first to leave. Reports by employers to the United States Employment Service show that in the aircraft industry Negroes accounted for 5.1 percent of the labor force in the war period, but for only 2.1 percent in 1947. In coal mining they accounted for 11 percent of the working force in the war period, but for only 9.2 percent in 1947. In electrical machinery the percentage went from 4.1 to 3.6; in furniture, from 9 to 7.5; in smelting and refining, from 10.4 to 9.2; in shipbuilding, from 15.4 to 12.6. Increases were recorded only in "hot and heavy" industries such as ferrous foundries, metal mining, and the like. These figures clearly demonstrate the lack of equal opportunities for Negroes to acquire the same skill and seniority as other workers.

Negro employees not only earn less, and have fewer occupational opportunities than white workers; it is a matter of common knowledge that given equal skill and training, the chances of a Negro getting a job are ordinarily less than those of a white worker. The job he does get more than likely will be of a relatively unpleasant variety paying less in wages than that obtained by the white applicant. Frequently he receives less in wages for performing the same job than the white employee. It must be constantly borne in mind that when an employer pays a substandard or close to substandard wage to any particular group of employees for reasons not connected with their qualifications for the job, the wage rates of all other employees are also jeopardized. This is true whether the discrimination takes the form of employer practices or results from unfair barriers to union membership.

It is impossible to estimate the damage to our economic well-being caused by forcing Negroes and workers belonging to other minority groups to the fringe, submarginal and onerous jobs and paying them for their labor wages less than those paid to preferred groups of employees for the same work. It is well to recall Booker T. Washington's pertinent remark, "The only way to keep a fellow in a ditch is to get into it yourself and sit on him."

Eric Johnston, formerly president of the United States Chamber of Commerce, has aptly said:

"The withholding of jobs and business opportunities from people does not make more jobs and business opportunities for others. You can't sell an electric refrigerator to a family that can't afford electricity. To put it in simplest terms, we are all in business together."

"Whenever we erect barriers on the grounds of race or religion or of occupational or professional status, we hamper the fullest expression of our economic society. * * * There are some in our country—industrialists, white-collar workers, laboring people—who hold to the myth that economic progress can be attained on the principle of the unbalanced see-saw. They think that if some groups are forever held down, the others will forever enjoy privileges and prosperity at the end which is up.

"Fortunately it does not work that way. Any advantage thus gained is paid for out of the fruits of the productive plant. I repeat: Intolerance is destructive. Prejudice produces no wealth. Discrimination is a foolish economy."

If we mean what we say by the term "free enterprise," we must also mean that a man with skills will not be subjected to discrimination in their use to make a living. To employ the term otherwise is to give it a meaning in direct conflict with the Declaration of Independence and the American credo. Our economy needs all available skills, and cannot afford to deny itself the services of a journeyman because of his color, his race, or his national origin any more than it can do so because of his Democratic or Republican politics. As stated by Dr. Frank P. Graham, president of the University of North Carolina, in his opinion for the National War Labor Board in the *Southport Petroleum Co. case*:

"The world has given America the vigor and variety of its differences. America should protect and enrich its differences for the sake of America and the world. Understanding religious and racial differences makes for a better understanding of other differences and for an appreciation of the sacredness of human personality as a basis to human freedom. The American answer to differences in color and creed is not a concentration camp, but cooperation. The answer to human error is not terror, but light and liberty under the moral law. By this light and liberty the Negro has made a contribution in work and faith, song and story, laughter and struggle, which are an enduring part of the spiritual heritage of America."

S. 984, in my opinion, represents a wise approach to the problem of discrimination in employment practices. It has been the experience of the President's Fair Employment Practice Committee, as reflected in its final report dated June 28, 1946, the State Commission Against Discrimination in the State of New York, the National War Labor Board, labor conciliators and arbitrators, and others, that, in the largest part, what is most vitally needed is not so much law enforcement as education.

Discrimination in employment for the reasons we have under discussion is frequently based upon local tradition, accepted as a matter of course by the community. Sometimes it is grounded upon what an employer believes are the prejudices and preferences of the majority of his employees. Conciliation, negotiation, conference procedures, and similar educational methods cannot always dispel the mists of prejudice. There were important cases in which the Fair Employment Practice Committee found its conciliation and mediation efforts unavailing. But its 5-year record of settling nearly 5,000 cases by peaceful negotiations, including 40 strikes caused by racial differences, is impressive.

I am convinced that the most efficient method of dealing with the problem of discrimination in employment is primarily by the process of peaceful persuasion by a mediator who specializes in employment discrimination cases. This is the method proposed in S. 984. Such a mediator can bring to each situation a wealth of background and experience which should serve to dissipate the frequently unreasoned and ill-considered fears that equality of treatment will result in riot, bloodshed, and other extreme consequences.

Last year it was brought to my attention that in the District of Columbia the United States Employment Service operated on a basis of racial segregation. White and Negro applicants for employment, I was told, were obliged to form separate lines for interview purposes. The maintenance of separate application files and the practice of having white staff members serve white applicants and Negro staff members serve Negro applicants operated to reduce the effectiveness of the employment service in providing efficient service to all applicants. It was believed by some that there was a deep local tradition that justified and made necessary this segregation of administration, the termination of which, notwithstanding its cost and inefficiency, would be attended with deplorable consequences. They were wrong. When this segregation was ended it was found that these fears were imaginary. In fact, all applicants now receive more efficient service than was possible under the previous policy of segregation.

S. 984 provides that when "informal methods of conference, conciliation,

and persuasion" fail, and only then administrative proceedings shall be conducted, leading up to the issuance of a cease-and-desist order, where the legislative standards have been met. The provisions of the bill make special reference to the necessity of conforming with the relevant provisions of the Administrative Procedure Act. I support these provisions of the bill. It must be recognized that the mere fact that legal sanctions may be invoked will be of inestimable help in persuading employers and labor organizations voluntarily to discontinue their unfair practices. The sanctions provided are appropriate to the offense—administrative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the act.

The bill provides that only employers engaged in commerce or in operations affecting commerce who have 50 or more individuals in their employ are subject to the act. This is, I believe, a wise provision. It would not be well for the Congress to burden the Commission's administrative efforts with a profusion of small cases. It is reasonable to expect that the largest number of charges of unlawful employment practices will relate to Negroes who, with a population of about 14,000,000, represent the largest minority group subject to discrimination in employment. It has been estimated that about three out of every five Negroes employed in nonagricultural establishments are in industries within the scope of the bill, and that the great majority are in the larger establishments.

Section 5 of this bill defines the unlawful employment practices which it is its purpose to eliminate. In addition to proscribing discriminatory practices of an employer with respect to hiring and discharging and terms, conditions, and privileges of employment, this section prohibits employers from utilizing employment agencies, placement services, training schools, and labor organizations in their hiring or recruitment of workers, which discriminate on the grounds specified. Not all employers who discriminate on racial, color, religious, or other grounds are motivated by narrow prejudices. Frequently their discriminatory practices stem from the fact that the agencies which are the sources of their labor supply impose undemocratic restrictions. It would be unfair and unjust to proceed legally against employers who are of good will and purpose and to ignore the sources of their labor supply where racial, religious, or color tests are applied as conditions of referral to employment.

Section 5 (b) makes it an unlawful employment practice for a labor organization to discriminate against an individual on the specified grounds, or to limit or classify its membership in any way which would deprive or tend to deprive an individual of, or to limit his employment opportunities, or would otherwise adversely affect his status as an employee or as an applicant, or his wages, hours, or employment conditions. Most labor unions, like the vast majority of Americans, draw no color, race, ancestry, or religious lines insofar as economic rights are concerned. There are a few labor organizations, however, which do discriminate on these grounds. Discrimination should no more be tolerated in labor unions than in industry or in any other phase or aspect of American life.

Among other provisions of the bill deserving comment are those in section 10. The President is authorized to issue rules and regulations prohibiting any unlawful employment practice by any person who makes a contract with any agency or instrumentality of the United States which requires the employment of at least 50 individuals. It is frequently impossible to predetermine the labor requirements of a contract although it is manifestly administratively desirable to do so if the contractors are to be dealt with fairly. A contractor may not know until performance is in full swing that the employment standards of the bill are applicable to him. It is suggested that it might be preferable to make the coverage of the employment standards of the bill with respect to the performance of a Government contract depend upon the dollar value of the goods or work called for by the contract as under the Walsh-Healey Public Contracts Act, rather than the number of persons employed. This would have the advantage of assuring uniform application of minimum wage, overtime, and child-labor standards and fair employment practices to employees working on Government supply contracts.

In conclusion, I wish to emphasize that discrimination in employment is not a regional or a local problem. It does not respect State lines. Widespread wage discrimination against a minority group in one State not only tends to depress wages in that State, but subjects competitors in other States where antidiscrimination laws exist to a severe competitive disadvantage. Discriminatory treatment on grounds of race, color, and religion adversely affects our whole economy. It

lowers living standards, creates difficult problems in public health and relief, denies needed skills to the productive machinery of the Nation, interferes with production by causing labor unrest and disputes, and hampers and embarrasses us in the conduct of our international relations.

Although the President has not endorsed the specific provisions of this bill it may be pertinent to quote the following statement in his economic report of January 8, 1947, which discloses his recognition of the seriousness of the national problem with which S. 984 would deal, in part:

"We must end discrimination in employment or wages against certain classes of workers regardless of their individual abilities. Discrimination against certain racial and religious groups, against workers in late middle age, and against women, not only is repugnant to the principles of our democracy, but often creates artificial labor shortages in the midst of labor surplus. Employers and unions both need to reexamine and revise practices resulting in discrimination. I recommend that, at this session, the Congress provide permanent Federal legislation dealing with this problem."

The economic, moral, and political need for early enactment of S. 984, in the broadest sense of those terms, is pressing.

STATEMENT OF MRS. EDWIN SELVIN, CHAIRMAN, WOMEN OF THE PACIFIC, BEVERLY HILLS, CALIF.

JUNE 11, 1947.

To the Senate Committee on Labor and Public Welfare,
Washington 25, D. C.

(Attention: Philip R. Rodgers, Committee Clerk.)

GENTLEMEN: Relative to your telegram of June 4, informing me that the subcommittee on antidiscrimination legislation had directed you to advise me that I have been scheduled to testify on June 13 at its hearings on S. 984, and that I am to file my completed brief with the committee clerk (Mr. Philip R. Rodgers) submitting 75 copies to supply the committee members and the press.

The day I received your telegram (June 4) I called Mr. Rodgers long distance and stated it was doubtful if I could come to Washington in person at that time but that I would prepare and file a brief, which is herewith submitted in multiple form of the required 75 copies.

CALIFORNIA'S ATTITUDE

My understanding is that these hearings are held for the express purpose of ascertaining public opinion throughout the Nation on this controversial issue.

Insofar as California public opinion is concerned, the record of legislative action in this State shows that California is opposed to this type of legislation.

Believing I can best serve the purpose of the Senate Committee on Labor and Public Welfare by confining this brief to a factual recital of my State's experience with this particular type of so-called antidiscrimination legislation, I will let the facts speak for themselves without any argumentation or academic discussion on my part.

On three different occasions California has rejected such proposed laws. Twice, through the peoples' elected representatives, rejection was by action of the State legislature. The third rejection was by direct vote of the people, at the general election of November 5, 1946, when, as an initiative measure on the ballot designated as proposition No. 11, the proposal to create a fair employment practice commission in California was defeated by a vote of 1,632,646 to 875,697. This was an overwhelming majority against of more than 1,000,000 votes.

It is significant of the intent of California people to have no such legislation that not only was proposition No. 11 rejected by a majority in excess of 1,000,000 votes; but that its sponsorship (various pressure groups which prior to the 1946 election had rather generally been supposed to be the dominant power in California politics) was repudiated. Until the votes had been counted—so much noise had the sponsorship made by newspaper, radio, and billboard advertising, public meetings, and other avenues of publicity—the assumption had been that proposition No. 11 would carry by a heavy majority.

Under California law sponsors of record of initiative measures must be qualified registered voters who, as individuals, sign an initiative petition. They are called legal proponents. In this case there were 20 legal proponents, all of

whom are associated in the public mind with various segments of the so-called liberal or left-wing movement.

In the California debate of FEPC it is noteworthy that there were large minorities against proposition No. 11 in this State's highly industrialized centers, where the AFL and CIO hierarchies have boasted they are able to deliver the labor vote.

For instance Los Angeles County, 758,641 to 204,038—majority against of 403,703; San Francisco County, 141,056 to 69,051—majority against of 72,005; Alameda County (Oakland and other Bay cities) 131,061 to 61,252—majority against of 67,709; San Diego County, 83,006 to 31,001—majority against of 51,005.

And in the agricultural sections, the vote in Orange and Riverside Counties (heart of California's great citrus industry was typical; Orange, 40,580 to 9,508—majority against of 31,072; Riverside, 25,424 to 7,390—majority against of 18,028.

In not a single one of California's 58 counties was there a majority vote for the measure. This is added factual evidence that the people of California, on a State-wide basis, do not want FEPC legislation.

To complete this clarification of the California attitude on legislation of this type, two other factual matters, peculiarly germane, are here offered for consideration of the Senate Committee on Labor and Public Welfare:

I

As recorder in the office of secretary of state at Sacramento, the total number of valid signatures of registered voters to the initiative petition qualifying proposition No. 11 for the 1946 general election ballot was 102,426, of which 10,631 were from a single county (Los Angeles County), leaving a hypothetical average of only 1,786 for each of the other 57 counties.

The point in this is that after deducting this backlog of 102,426 captive "yes" votes from the final State-wide tally of 675,607 "yes" votes, only 483,271 other citizens were influenced to cast a ballot for proposition No. 11. And, further, the total registration for the 1946 election being 4,383,063, and of these only 675,607 having voted "yes," there remained 3,708,206 California registered voters who could have but did not vote "yes" on proposition No. 11.

So, by any line of reasoning, or any combination of comparative figures, the record shows that California by both positive and negative action has utterly repudiated the type of legislation that the Senate Committee on Labor and Public Welfare is now considering on a Nation-wide scale in S. 984 titled "National Act Against Discrimination in Employment."

II

The source of the backing, financial and otherwise, for proposition No. 11 has a bearing on this analysis of the California attitude.

Without casting any reflection on well-meaning persons who might have favored proposition No. 11, it is a matter of common knowledge here in California that Communists, fellow travelers, parlor plunks, left-wingers, and radicals of all hues were its protagonists and that FEPC propaganda emanated from those sources.

And, right here, again, it is well to emphasize the fact that of 4,383,063 California citizens qualified to vote for proposition No. 11 had they wanted to, only 675,607 did so.

In 1941 the California Legislature created the joint fact-finding committee on un-American activities in California, composed of members of both houses, which is still functioning.

The committee's third report to the legislature was made March 24, 1947. This is a printed volume of 403 pages. Nine of the 20 legal proponents of proposition No. 11 are named therein, linked with what the legislature's committee brands as Communist front organizations of the Communist Party itself.

On page 46, under the subhead "Behind the FEPC," the committee on un-American activities in California sums up its investigation of that phase of the Communist Party line with this indictment:

"Early in 1945 it became apparent to the Communist Party leaders in California that a political organization capable of drawing ethnical groups into its sphere of influence was necessary to supplement the work of its other fronts. The Communist-inspired Fair Employment Practices Act (FEPC) was to be

launched as a rallying point for racial minorities and the Communist Party hoped to mobilize these groups at the polls in the 1948 elections and thus carry their own candidates with an overwhelming vote for the initiative measure."

"Committee investigators made an exhaustive study of the tracts, pamphlets, dodgers, handbills, and miscellaneous literature issued by the Southern California Committee for the Promotion of the Fair Employment Practices Act (FEPAC), generally referred to in the 1948 elections as proposition No. 11. The committee learned that of the 63 sponsors and officers of the committee for proposition No. 11 more than one-half had been prominent in movements sponsored by the Communists and left-wingers in California."

This factual outline presents an accurate picture of the attitude of the people of California on this type of legislation, as well as the Communist parentage of FEPAC—which is so fully documented in the 1947 Report of the Legislative Committee on Un-American Activities in California.

The figures herein given of the voting on proposition No. 11 are taken from the printed pamphlet issued by the Honorable Frank M. Jordan, secretary of state of California, titled "State of California Statement of Vote, General Election, November 5, 1948."

The successful State-wide campaign to defeat proposition No. 11 was led by Women of the Pacific, which was first in the field informing the people what this proposed law really was and what was back of it. We printed an eight-page pamphlet of analysis, which ran through nine editions from August 10 to October 24, 1946, with a total printing of 425,000 copies. These pamphlets were supplied to groups of labor union members, church people, women's clubs, civic bodies, business and professional associations, and local committees throughout the State which were set up to oppose proposition No. 11, and to individuals seeking authentic information.

So, in writing this brief for the Senate Committee on Labor and Public Welfare, I speak with first-hand knowledge and understanding of the facts.

Women of the Pacific is a nonprofit civic organization of consumers, founded in 1938, at a mass meeting of women in Los Angeles attended by a representative cross section of feminine citizenship of California. Approximately 4,000 women were present at the organizational meeting, February 28, 1938.

During the intervening years more than 250,000 citizens of California (men and women) have by their signatures attested their approval of, and participated in, the continuous activities of Women of the Pacific in the public interest, convenience and necessity.

Respectfully,

Mrs. EDWIN SELVIN.

STATEMENT OF PAULSEN SPENCE, SPENCE ENGINEERING CO., INC., WALDEN, N. Y.

JULY 18, 1947.

Re S. 984.

Hon. FORREST C. DONNELL,

United States Senate, Washington, D. C.

MY DEAR SENATOR DONNELL: Out of courtesy to Senator Ives, I request permission to amend my statement made before the Senate Labor and Public Welfare Committee on July 16, 1947, to the extent that all references to Senator Ives be deleted.

I also request that all parts of my oral statement directed at Senator Ives be deleted.

I am enclosing a revised statement for your convenience.

I would like to add a supplementary statement discussing the commerce clause.

I wish to take this opportunity of publicly apologizing to Senator Ives.

I also would like to take this opportunity to thank you and the committee for your courtesy.

Sincerely yours,

PAULSEN SPENCE.

**A SUPPLEMENT TO A STATEMENT BEFORE THE SENATE LABOR AND PUBLIC WELFARE
COMMITTEE, JULY 10, 1947**

S. 984 is, in my opinion, unconstitutional, for the reason that the tenth amendment plainly states: "Powers not delegated to the United States by the Constitution, nor prohibited by it to the States, shall be reserved to the States respectively or to the people."

I can find no power granted by the Constitution that would permit Congress to enact this bill.

It is evident from the wording of the bill that the sponsors are depending upon the commerce clause for its constitutionality. This would be stretching the commerce clause far beyond any reasonable interpretation. In fact, if this bill were valid, under the commerce clause, Congress could pass almost any kind of a law, including the prohibition of the printing of Bibles under this power.

The Constitution says: "Congress shall have power to regulate commerce among the several States."

It makes no reference to "interstate commerce." Had the founders intended to give the Congress the power to regulate "interstate commerce," the Constitution would read: "Congress shall have power to regulate interstate commerce."

Some may argue that this is a distinction without a difference, but when one studies the record of the Federal Convention of 1787 and the history of the time between the end of the Revolution and the writing of the Constitution, the difference becomes clear. Between 1783 and 1787 each State was an independent sovereignty, and the States were continually quarreling with each other over commerce. If one wished to ship a barrel of apples from New York to Maryland overland, New Jersey and Pennsylvania would undertake to tax that shipment and generally interfere with it. The founders realized that if this was to become a great Nation, a State must not be allowed to interfere with the commerce of another State and rightly gave the Congress power to act as an umpire when disputes over commerce arose among States.

Furthermore, if one consults the second edition of Webster's Unabridged Dictionary, he will find commerce defined as:

"1. Business intercourse; esp., the exchange or buying and selling of commodities, and particularly, the exchange of merchandise on a large scale between different places or communities; extended trade or traffic."

No reference is made to manufacturing; in fact, commerce begins where manufacturing ends.

Others argue that times have changed and interpretation must change with the times. They entirely overlook the fact that the Constitution provides for its own amending and that in 1787, as now, everybody depended, more or less, upon goods from other States. George Washington, when he signed the Constitution, did not have one stitch on his back that had not in some way come from another State. New England shipped clocks to the Southern States and got back tobacco, indigo, and many other products in return. Daniel Boone's long rifle was probably made in New England. Had the people of those times ever dreamed that they were approving a document that gave the Federal Government power to regulate wages, prices, production, et cetera, under the guise of "regulating commerce among the several States," the Constitution would not have been accepted.

The absurdity of the latter day interpretations can be shown further by reference to the Constitution itself. The Constitution has over 4,000 words specifically defining and delegating the powers of the Federal Government and the States. Before accepting the Constitution, the people insisted that a Bill of Rights be included, which became the first 10 amendments.

The commerce clause, if the present-day interpretation is to continue, to all intents and purposes does away with the Bill of Rights and most of the limitations placed on the Federal Government by the Constitution. Is it not rather absurd that the founders should spend 3 months of a hot summer framing a Constitution of over 4,000 words, and the people should insist that 10 amendments containing the Bill of Rights be added, and then cancel out the whole Constitution, including the Bill of Rights, by one clause containing 10 words?

James Madison, more than 80 years after the adoption of the Constitution, wrote:

"* * * But whatever might have been the opinions entertained in forming the Constitution, it was the duty of all to support it in its true meaning as understood by the Nation at the time of its ratification."

"My impression is also very decided, that if the construction which brings casuals within the scope of commercial regulations had been advanced or admitted by the advocates of the Constitution in the State conventions, it would have been impossible to overcome the opposition to it."

* * *

"What a metamorphosis would be produced in the code of law if all its ancient phraseology were to be taken in its modern sense! And that the language of our Constitution is already undergoing interpretations unknown to its founders will, I believe, appear to all unbiased inquirers into the history of its origin and adoption. Not to look farther for an example, take the word "consolidate," in the Address of the convention prefixed to the Constitution. It there and then meant to give strength and solidity to the union of the States. In its current and controversial application, it means a destruction of the States by transfusing their powers into the government of the Union."

* * *

"For a like reason, I made no reference to the 'power to regulate commerce among the several States.' I always foresaw that difficulties might be started in relation to that power which could not be fully explained without recurring to views of it, which, however just, might give birth to specious though unsound objections. Being in the same terms with the power over foreign commerce, the same extent, if taken literally, would belong to it. Yet it is very certain that it grew out of the abuse of the power by the importing States in taxing and non-importing, and was intended as a negative and preventive provision against injustice among the States themselves, rather than as a power to be used for the remedial purposes of the General Government, in which alone, however, the remedial power could be lodged."

NOTE.—Above James Madison quotations taken from Records of the Federal Convention of 1787, vol. III—CCCXLII, CCL, CCLLI, CCLXVI.

STATEMENT OF PROPOSED AMENDMENTS OF CONSTITUTION OF THE STATE OF CALIFORNIA

[Telegram]

LOS ANGELES, CALIF., June 20, 1947.

ROBERT GILBERT,
Washington, D. C.:

Copy of wire to Green as follows: Robert W. Gilbert, attorney for the Los Angeles Central Labor Council, reports that during hearings on the FEPC bill S. 984, testimony is being introduced to the effect that the State of California defeated FEPC legislation and is, therefore, opposed to national FEPC. The fact of the matter is that the FEPC bill presented to the voters in California was drafted by a Communist-controlled group and contained objectionable features not in keeping with the policies of the United States. However, Governor Warren, all labor groups, civic groups, and church organizations have wholeheartedly endorsed the principle of FEPC. If the California bill had not contained left-wing ideologies it undoubtedly would have been accepted. I am instructing Mr. Gilbert to submit this information to the committee. Will appreciate any assistance you may give him in establishing these facts in the record.

W. J. BASSETT,
Secretary, Los Angeles Central Labor Council.

JUNE 24, 1947.

HON. EARL WARREN,
Governor, State Capitol,
Sacramento, Calif.

DEAR GOVERNOR WARREN: Hearings are being held on antidiscrimination legislation by a subcommittee of this committee, and we would like to have a copy of the exact language of the proposal which was rejected by the voters of California at the polls.

Since a number of witnesses have alluded to that rejection in their testimony before the subcommittee, and since some controversy has developed as to just what that provision was, it will be very much appreciated if a copy of the proposal is sent to the committee.

Sincerely yours,

PHILIP R. RODGERS, *Committee Clerk.*

STATE OF CALIFORNIA.
GOVERNOR'S OFFICE,
Sacramento 14, July 28, 1947.

MR. PHILIP R. RODGERS,
Clerk, Senate Committee on Labor and Public Welfare,
Washington, D. C.

DEAR MR. RODGERS: Governor Warren has asked me to acknowledge your letter of June 24th relative to antidiscrimination legislation.

In accordance with your request, I am happy to enclose copy of the Fair Employment Practice Act which was submitted to the voters of California at the November 1946 general election. The arguments are found on page 11, and the text of the proposition is on pages 10, 11, and 12 of the appendix.

Sincerely,

BEACH VASEY, *Legislative Secretary.*

PROPOSED AMENDMENTS TO CONSTITUTION—PROPOSITIONS AND PROPOSED LAWS,
TOGETHER WITH ARGUMENTS

(To be submitted to the electors of the State of California at the general election
Tuesday, November 5, 1946)

Compiled by Fred B. Wood, legislative counsel. Distributed by Frank M. Jordan, secretary of state.

CERTIFICATE OF SECRETARY OF STATE

STATE OF CALIFORNIA,
Department of State, Sacramento, Calif.:

I, Frank M. Jordan, secretary of state of the State of California, do hereby certify that the following measures will be submitted to the electors of the State of California at the general election to be held throughout the State on the fifth day of November 1946.

Witness my hand and the great seal of the State, at office in Sacramento, Calif., the 4th day of September, A. D. 1946.

[SEAL]

FRANK M. JORDAN,
Secretary of State.

(P. 11)

Fair Employment Practices Act.—Initiative: Declares State policy that all persons have the right of equal opportunity to secure employment. To effect such policy makes it unlawful to refuse to hire, to discharge, or to discriminate in conditions of employment against any person because of race, religion, color, national origin, or ancestry. Establishes a commission to prevent such unlawful practices by conciliation or order and by education. Provides for judicial review of commission's orders. Appropriations sum for commission. Yes -----
No -----

(For full text of measure, see p. 10, pt. 11.)

ARGUMENT IN FAVOR OF INITIATIVE PROPOSITION NO. 11

A "yes" vote for proposition No. 11 furthers the cause of American democracy, which rests on equality of opportunity. This ideal already is written into our State and Federal Constitutions. Prosperity in postwar America depends on the continuation of the unity and the equality of job opportunity which played so vital a part in winning the war. Unless mass purchasing power is maintained we shall revert to the dark depression days of the early 'thirties.

Proposition No. 11 is offered to utilize the skills of all our citizens in the production of badly needed goods, to maintain purchasing power, and to increase business activity. It extends as a civil right the privilege of employment without discrimination because of race, religion, ancestry, or national origin.

Every worker in the factories and the fields, in the offices and the shops, agrees that he wants a good job more than anything else. Proposition No. 11 does not guarantee jobs. It does, however, assure employment opportunity based on ability, training, and experience. The employer may hire anyone he chooses but he cannot discriminate solely on a basis of race, religion, or national ancestry.

No loss of jobs is implicit in this proposal. Employment relations already existing are not jeopardized. Employment situations in which fewer than five persons are involved are exempted by the proposition, as are religious, charitable, and educational institutions, domestic service, and family employment.

This is no new law. It is already operating successfully in many States, including New York, New Jersey, Indiana, Wisconsin, and Massachusetts. In these States opponents of the bill declared that the proposal would create strife, encourage immigration, and result in endless litigation. Each of these arguments has been emphatically disproved. In no instance has it led to burdensome court action. Far from it, the measure has eliminated social tensions. It has increased the number of jobs for workers; it has energized trade and commerce.

A main provision of the proposal is its insistence on educational and conciliatory methods to solve the problem of job discrimination. Legislation is offered as a supplement to education rather than as a substitute for it. Both are needed, for education is ineffectual unless legislation can compel a few recalcitrants to conform to democratic practices.

More than 275,000 citizens of the State of California signed a petition to submit this issue to a direct vote of the people. The attitude of those who support a Fair Employment Practices Act is best indicated in the words of the following religious leaders (Most. Rev. John J. Cantwell, Rt. Rev. W. Vertrand Stevens, Rabbi Edgar F. Magula, and Dr. E. C. Farnham):

"We must put upon our statute books the legal guarantee that this war shall not have been fought in vain and that the American concept of human equality, to which men look for guidance in the principles and practices of liberty shall become at last more than a hope and a desired end * * *"

Augustus F. Hawkins, Assemblyman, Sixty-second District; Leon H. Washington, Jr., Editor and Publisher, Los Angeles Sentinel, Los Angeles, Calif.; Herman Hill, Pacific Coast Editor, Pittsburg Courier, Los Angeles, Calif.; Loren Miller, lawyer, Los Angeles, Calif.; Mrs. Betty Hill, President, Women's Political Study Club, Los Angeles, Calif.; Rev. Hughbert H. Landrum, San Francisco, Calif.; Mrs. Sumner Spaulding, Los Angeles, Calif.; George D. Collins, Jr., Assemblyman, Twenty-second District; Mrs. Marjorie Pittman, San Jose, Calif.; and Daniel G. Marshall, Los Angeles, Calif.

ARGUMENT AGAINST INITIATIVE PROPOSITION NO. 11

This act would create a State fair employment practices commission for the alleged purpose of preventing discriminations in employment because of race, religion, color, national origin, or ancestry. Persons accused of violating the act would not be entitled to trial by jury at any time although criminal penalties can be imposed. The commission would not be bound by the usual rules of evidence or procedure.

All think people should vote "No" on this measure:

1. Religious, national, or racial intolerance is a matter of individual conscience that cannot be changed by legislative coercion. Any attempt to force employees to work with other employees whom they dislike will generate friction and intolerance rather than overcome it.

2. The act would lead to serious trouble in California agriculture. California farmers are noted for willingness to employ workers from all minority groups. Certain minority racial groups are the most efficient agricultural labor, but individual farmers have usually found it necessary to confine the hiring to one group in order to avoid ill feeling and even violence between minorities. If compelled by law to put minorities with conflicting customs, creeds, and prejudices into the close proximity required for agricultural labor, inevitably friction, and in many cases, violence will result.

3. This act would play into the hands of potential alien enemies. It would make illegal, prior to employment, business inquiry into national origin or ancestry.

4. In the three States which have established commissions of this type, there is no evidence that they have accomplished their purpose.

5. The constitutional Bill of Rights guarantees religious liberty but it does not impose upon a member of any religious faith the obligation to employ members of other religious faiths. No provision of the Constitution authorizes legislation of this type.

6. This act would deprive those accused under it of the right of trial by jury.

7. This act would deprive the accused, whether employees, labor unions, or employers, of the customary rules of evidence and legal procedure. In effect, it authorizes an inquisition into the affairs of individuals, labor unions, and employers and deprives them of those safeguards of evidence and procedure which have developed through hundreds of years of experience and have been found necessary to protect the people against arbitrary and oppressive action.

8. The courts of the State would have no power to stay any order of the Commission, even pending review.

9. This proposal would defeat its alleged purpose. Prejudices can be eliminated only by evolution and education, not by compulsory legislation. History through countless ages teaches that any attempt to force social regulations by law only results in accentuating cleavages, sowing discontent, and increasing frictions, leading to hostilities and violence between races and groups.

10. The communistic plan of promoting discord in democratic countries would be furthered by this act.

For these and other reasons which will occur to you, vote "no" on proposition 11.

George M. Breslin, Attorney at Law, Los Angeles, Calif.; W. J. Ceell, General Manager, California Grape and Tree Fruit Association, Fresno, Calif.; Dr. James W. Fifield, Jr., Minister, First Congregational Church, Los Angeles, Calif.; Francis V. Keesling, San Francisco, Calif.; Hal G. Hotchkiss, Realtor, San Diego, Calif.; Ray B. Wiser, President, California Farm Bureau Federation, Berkeley, Calif.; Mrs. Alice Tanner Gairdner, Los Angeles, Calif.; Alfred J. Lundberg, Oakland, Calif.; A. J. McFadden, Agriculturist, Santa Ana, Calif.; Mrs. Eugene M. Prince, San Francisco, Calif.

(Pp. 10, 11, and 12, appendix)

Fair Employment Practices Act—Initiative: Declares State policy that all persons have the right of equal opportunity to secure employment. To effect such policy makes it unlawful to refuse to hire, to discharge, or to discriminate in conditions of employment against any person because of race, religion, color, national origin, or ancestry. Establishes a commission to prevent such unlawful practices by conciliation or order and by education. Provides for judicial review of commission's orders. Appropriates sum for Commission. Yes-----
No-----

PROPOSED LAW

The people of the State of California do enact as follows:

SECTION 1. This act may be referred to as the "California Fair Employment Practice Act."

SEC. 2. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life, and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness. The opportunity to obtain and hold employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized and declared to be such a civil and constitutional right.

SEC. 3. The people of the State of California declare that existing practices of discrimination involving race, religion, color, national origin, or ancestry are a matter of State concern because they—

(1) Foment strife and unrest;

(2) Threaten the rights and privileges of all of us;

(3) Affect substantially and adversely the interests of employees, and employers, thus depriving the State of the fullest utilization of its capacities for development and advance;

(4) Menace the institutions, foundations, and traditions of our free democratic state and society;

This act shall be deemed an exercise of the police power of the State for the protection of the public welfare, prosperity, health, and peace of the people of the State of California. The people declare that the protection and safeguarding of the right and opportunity to obtain and hold employment without such discrimination or abridgement shall be public policy of this State.

SEC. 4. There is hereby created a State Fair Employment Practice Commission. Such commission shall consist of five members to be known as commissioners, who shall be appointed by the Governor. The commissioners shall elect one of their number chairman of the commission. The term of office of each member of the commission shall be for four years, provided, however, that of the commissioners first appointed two shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years.

Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed. Three members of the commission shall constitute a quorum for the purpose of conducting the business thereof.

SEC. 5. The members of the commission shall not practice their respective professions or callings, but shall devote their entire time to the duties of their respective offices. Each member of the commission shall receive a salary of seven thousand five hundred dollars (\$7,500) a year and shall also be entitled to his expenses actually and necessarily incurred by him in the performance of his duties.

Any member of the commission may be removed by the Governor for inefficiency, neglect of duty, or misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.

SEC. 6. The commission shall have the following functions, powers, and duties:

1. To establish and maintain a principal office and such other offices within the State as it may deem necessary.

2. To meet and function at any place within the State.

3. To appoint such attorneys, clerks, and other employees as it may deem necessary and prescribe their duties.

4. To obtain upon request and utilize the services of all governmental departments and agencies.

5. To adopt, promulgate, amend, and rescind appropriate rules and regulations to carry out the provisions of this act.

6. To receive, investigate, act in, and render decisions on alleged instances of discrimination in employment because of race, religion, color, national origin, or ancestry.

7. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath, and in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission.

No person shall be excused from attending and testifying or from producing records, correspondence, documents, or other evidence in obedience to the subpoena of the commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

8. To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this act, and may empower them to study the problem of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religion, color, national origin, or ancestry, and to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the State, and to make recommendations to the commission for the development of policies and procedures in general and in specific instances. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but the commission may make provisions for technical and clerical assistance to them.

9. To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religion, color, national origin, or ancestry.

10. To render annually to the Governor and biennially to the Legislature a written report of its activities and its recommendations.

Sec. 7. It shall be an unlawful employment practice:

1. For an employer acting for himself, or acting through any other person, or acting through any employee who at the time is acting within the course and scope of his employment, to refuse to hire or employ, or to bar, or to discharge from employment any person because of the race, religion, color, national origin, or ancestry of such person, or for an employment agency to refuse or fail to refer any person for employment, because of the race, religion, color, national origin, or ancestry of such person, or for any of them to discriminate against such person in compensation or in terms, conditions, or privileges of employment. This section shall be interpreted so as to guarantee and protect all the rights of veterans of the United States military services under all Federal and State legislation protecting the rights of such veterans to employment.

2. For a labor organization to exclude, expel or restrict from its membership, or fail or refuse to refer to employment any person because of the race, religion, color, national origin, or ancestry of such person, or to discriminate in any way against any of its members, or against any employer, or against any person employed by an employer, because of the race, religion, color, national origin, or ancestry of such member, employer, or employee, or to provide only auxiliary, second-class, or segregated membership for any person because of the race, religion, color, national origin, or ancestry of such person.

3. For any persons included within the scope of this act to make any inquiry in writing or orally in connection with an application for employment or in connection with prospective employment, or in connection with membership in any labor union, as to the race, religion, color, national origin, or ancestry of the applicant, employee, or employer, or to make any inquiry which expresses directly or indirectly any limitation, specification, or discrimination as to race, religion, color, national origin, or ancestry, or any intent to make any such limitations, specification, or discrimination.

Questions concerning race, religion, color, national origin, or ancestry, based upon a bona fide occupational qualification, may be asked upon specific written approval in advance by the commission.

4. For any persons included within the scope of this act to discharge, expel, or to discriminate in any manner against any person because he has opposed any practice forbidden under this act, or because he has filed a complaint, testified, or assisted in any proceeding under this act.

5. For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

Sec. 8. Every contract to which the State or any of its political or civil subdivisions is a party shall contain a provision requiring the contracting parties and their agents or assignees not to commit or permit any unfair employment practice, as defined in Section 7.

Sec. 9. The commission is empowered to prevent unfair employment practices. It may act upon a written complaint or as a result of its own investigation wherever it shall appear to it that an unfair employment practice has been committed. After the filing of any complaint, the chairman of the commission shall designate one of the commissioners to make, with the assistance of the commission staff, prompt investigation in connection therewith. If the commissioner shall determine after such investigation that an unfair employment practice has been committed, he shall immediately endeavor to eliminate such unlawful employment practice by conciliation and persuasion.

Where, as a result of the commission's own investigation, it shall appear to it that an unfair employment practice has been committed, the chairman of the commission shall immediately appoint a commissioner to endeavor to eliminate such unlawful employment practice by conciliation and persuasion.

In case of the commissioner's failure to eliminate such practice, or in advance thereof, if in the judgment of the commission or commissioner circumstances so warrant, the commission after reasonable notice shall hold a hearing at a time and place specified in such notice. The commission shall have full authority to hear the evidence and render a decision thereon, except that the commissioner who shall have previously made the investigation or attempted conciliation and persuasion shall not participate in any deliberations of the commission in such

case, and shall participate in the hearing only as a witness. Admissions made during conciliation shall not be received in evidence.

All hearings and investigations before the commission or a commissioner are governed by this act and by the rules of practice and procedure adopted by the commission. In the conduct thereof, the commission or commissioner shall not be bound by the common law or statutory rules of evidence and procedure, but may make inquiry in the manner, through oral testimony and records, which is best calculated to ascertain the truth of the matter in issue and carry out justly the spirit and provisions of this part. The case in support of the complaint, or of the commission's investigation, shall be presented before the commission or commissioner by one of its attorneys or agents. The testimony taken at the hearing shall be under oath and be transcribed. If, upon all the evidence at the hearing, the commission shall find that any unlawful employment practice as defined in this act has existed, exists, or is threatened, the commission shall state its findings and shall issue and cause to be served upon the person committing such unlawful employment practice, or threatened practice, an order requiring such person to cease and desist from such unlawful employment practice, or threat thereof, and to take such affirmative action, including (but not limited to) hiring, reinstatement, or upgrading of employees, with or without back pay, or acceptance into or restoration of membership in any respondent labor organization, as in the judgment of the commission or commissioner will effectuate the purposes of this act, and including a requirement for report or periodic reports of the manner of compliance. If, upon all of the evidence, the commission shall find that an unlawful employment practice has not been committed or threatened, the commission shall state its findings and shall issue an order dismissing the complaint or investigation. Any complaint filed pursuant to this section must be filed within six (6) months after the alleged unfair employment practice. Upon the written agreement of the party against whom the order will run, a consent order may be entered by the commission without a hearing.

Sec. 10. Judicial review of final orders of the commission shall be available to any party against whom the order runs, provided he shall petition for such review in the appropriate court within twenty (20) days after the entry of the order. The form of the review shall be certiorari. Such proceedings shall be brought in the District Courts of Appeal of the State of California, in the district wherein the unlawful employment practice which is the subject of the commission's order occurred. The commission's findings as to venue shall be conclusive.

A copy of the petition must be served on the commission prior to the filing thereof. The commission must furnish to the district court wherein the petition for review has been filed a copy of the transcript, together with a copy of the commission's order from which the appeal has been taken, within twenty (20) days after the petition is filed. Failure to petition for review shall be conclusively presumed to constitute consent to the commission's order.

At any time after the rendition of its decision the commission may obtain a court order enforcing its order. Violation of an order of the commission after such order shall have been finally sustained upon appeal, shall constitute contempt of court. No objection that has not been urged before the commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The court must enforce the commission's order unless it is contrary to law or unsupported by the evidence. If the court shall find that the commission's order would be enforceable if modified, the court must make the appropriate modification and enforce the order as modified.

All proceedings shall be heard and determined by the court as expeditiously as possible and with lawful precedence over other matters. Any court passing on orders of the commission must render a final decision within five (5) months after such petition is filed in such court, and judges of such court shall be required to make affidavit that they have complied with this requirement as a prerequisite to the payment of their salaries.

The court shall have the power to grant appropriate relief to the commission while the review is pending. The filing of a petition for review shall not operate as a stay of the commission's order. No court of this State shall have jurisdiction to issue any restraining order, or preliminary or permanent injunction, or any other restraint preventing the commission from performing any of its functions. Nor shall any court have jurisdiction to make any order affecting the commission or its orders, except as specifically provided in this act.

Sec. 11. 1. The term "person" includes one or more individuals, partnerships, associations, or corporations, legal representatives, trustees in bankruptcy, receivers, the State or any political or civil subdivision thereof, and cities.

2. The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

3. The term "labor organization" means any organization of any kind, or any agency or employees representing committee or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

4. The term "employer" includes the State or any political or civil subdivision thereof and cities, but does not include any person regularly employing fewer than five (5) persons, nor associations or corporations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, nor clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

5. Coverage does not include any individual employed by his parents, spouse or child or in the domestic service of any person in the home of such person.

6. The term "commission" means the State Fair Employment Practice Commission created by this act.

Sec. 12. Any person who shall willfully resist, prevent, impede, or interfere with the commission or any of its members or representatives in the performance of duty under this act, or shall willfully violate an order of the commission, shall be guilty of a misdemeanor and be punishable by imprisonment in a county jail for not more than six (6) months, or by fine of not more than five hundred dollars (\$500) or by both; but procedure for the review of the order shall not be deemed to be such willful conduct.

Sec. 13. The provisions of this act shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this act shall be deemed to repeal any of the provisions of the civil rights law or any other law of this State.

Sec. 14. If any clause, sentence, paragraph, or part of this act or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person or circumstance involved.

Sec. 15. To carry out the provisions of this act there is hereby appropriated out of any money in the State treasury the sum of two hundred fifty thousand dollars (\$250,000) or so much thereof as may be necessary continuously for each fiscal year commencing with the Ninety-eighth (98th) Fiscal Year; subject to the provisions of Section 16304 and Section 13320 to 13324 of the Government Code.

The appropriation made by this section shall be available for expenditure in addition to any other moneys appropriated to carry out the provisions of this act.

STATEMENT OF FREDERICK F. UMHEY, EXECUTIVE SECRETARY, INTERNATIONAL LADIES' GARMENT WORKERS' UNION, NEW YORK, N. Y.

The purposes of S. 984 are supported wholeheartedly by the International Ladies' Garment Workers' Union. Our membership of 380,000, scattered through some 34 States, is made up of a cross section of almost every national, racial, and religious group in the United States. Workers and employers of different color, different creed, different national ancestry have worked together side by side in harmony. Within our union and industry we do not and never have practiced any kind of discrimination either with regard to membership in the union or employment in shops under agreement with our union. This achievement is to a considerable extent responsible for the proud record of industrial peace which we have achieved in our industry. We believe that American industry, American workers, and the American consumer will benefit, as our industry, workers, and consumers have, if all barriers to employment based on color, or creed, or ancestry are removed.

The adoption of S. 984 will further the cause of American democracy and carry out the principles of the Declaration of Independence in its proclamation of self-evident truths: "That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." The declaration of policy of S. 984 clearly recognizes that the right of employment without discrimination because of race, religion, color, national origin, or ancestry is a civil right of all the people of the United States, a right recognized by the Declaration of Independence and our Constitution. The bill also furthers our international obligations, assumed by us as signatories of the Charter of the United Nations, to promote "universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion." It is a clear demonstration to the forces of foreign totalitarianism that democracy flourishes in the United States and that the right of the people to enjoy civil liberties, the right of life, liberty, and the pursuit of happiness, is not only preserved but is also implemented in a direct and a forthright manner.

We do not view the problem of employment discrimination as a sectional problem. It is a national problem. It requires a national remedy. The testimony already presented to the subcommittee has indicated the extent to which industrial discrimination leads to industrial depression. Where discrimination prevents the employment of skills of minority groups, the economy suffers from the waste involved in denying these workers the right to make their full share to the Nation's productive efforts. The purchasing power of such minority groups is restricted with the result that not only do the individuals in these groups suffer but the economy as a whole pays the price of discrimination. Again, the burden of relief payments, which are the direct result of discriminatory practices, is ultimately borne by the general public. Minority groups which cannot look forward to developing skills or being advanced are not and cannot be expected to be highly productive workers. Workers who cannot afford to pay for adequate housing, sufficient food, medical care, and reasonable recreation are not and cannot be expected to be efficient workers. We cannot achieve economic stability and economic prosperity as long as there are barriers to the development of the highest potential level of economic productivity. And we cannot achieve such a level until we remove all of the discriminatory practices which are as millstones on the necks of approximately 22,000,000 Catholics, 13,000,000 Negroes, 5,000,000 Jews, 3,000,000 Americans of Mexican or Hispanic origin, 11,000,000 foreign-born, and 23,000,000 children of foreign-born.

Discriminatory practices in employment must be eliminated before we can achieve any degree of economic stability. Discriminatory practices must be eliminated before we can pretend to any degree of political equality. We cannot tell the many millions of our veterans that our political ideals apply only during wartime, that once out of uniform our soldiers cannot expect to be treated as Americans only but as members of so-called minority groups. We cannot hope to be free of totalitarian movements so long as we provide them with fertile soil on which to grow.

We, therefore, believe it imperative that the purposes embodied in S. 984 become a part of our Nation's law. There is no doubt that with the passage of time it will be recognized that the scope of this bill needs to be expanded and its provisions further broadened and improved. Its adoption at this time will mark a significant declaration of our faith in democracy and in the equality of men.

LETTER OF ALMA VERSELLS, R. N., EXECUTIVE SECRETARY, NATIONAL ASSOCIATION OF COLORED GRADUATE NURSES, INC., NEW YORK, N. Y.

JULY 2, 1947.

SENATOR CLAUDE PEPPER,
Washington, D. C.

MY DEAR SENATOR PEPPER: At the first postwar biennial convention of the National Association of Colored Graduate Nurses just concluded in Atlanta, Ga., it was unanimously voted by the 400 delegates representing 26 States that we send you the following resolution:

"Whereas the National Association of Colored Graduate Nurses has always been vitally concerned with the health of all the people, and whereas the health of the Nation's largest minority, the Negro people, should be of particular concern to the entire country: Be it therefore,

"Resolved, That we strongly urge the passage of the National Health Insurance and Public Health Act of 1947, S. 1320, without discrimination as to race, creed, or color."

We respectfully urge its inclusion in the record of the Senate Subcommittee on Health.

We wish to express our sincere appreciation for your untiring efforts in behalf of legislation which will insure greater health benefits for all of the people of our Nation.

Respectfully yours,

ALMA VESSELLS.

LETTER OF FRED A. VIBKUS, CHAIRMAN, CONFERENCE OF AMERICAN SMALL BUSINESS ORGANIZATIONS, CHICAGO, ILL.

JULY 23, 1947.

Re S. 984.

HON. FORREST C. DONNELL,

*Chairman, Subcommittee of Committee on Labor and Public Welfare,
United States Senate, Washington, D. C.*

DEAR SENATOR DONNELL: The following views are submitted on behalf of this conference, concerning Senate bill No. 984, on which hearings were held last week. In accordance with our telegraphic request dated July 17, 1947, we ask that this memorandum be included in the record of the hearings.

The cornerstone of small business management is the right to hire and fire, and any abridgement of this right is a burden on small business, no matter what may be claimed for it.

As shown by its creation of a special committee in each House on the subject, the Congress desires to aid small business, but the passage of such a bill as S. 984 would do more harm to small business than all the good accomplished in all other ways combined.

Under this bill the businessman is presumed to be guilty until he proves himself innocent. He is paled on the defensive by a person who may be, and frequently would be, of questionable veracity and character.

Consider, if you will, the practical situations which will arise. A man or woman applies for a job, at some establishment employing 50 or more people. Judgments on hiring employees are in the highest degree intangible, and involve the art of adjusting human relationships, not just the science of applying skills and aptitudes. No matter how well suited to the job as regards skills and knowledge, the applicant may not fit into the organization. Are you going to compel the employer to hire him or her anyway? Then you wreck the foundation of enterprise, which is the art of managing people.

Now, if the employer does not hire this person, for his own good and sufficient reasons, then (under the bill) at any time within 1 year, upon the basis of a sworn statement, the Commission "shall investigate" the situation. "If it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practices," etc. (sec. 7 (a)).

In order to arrive at such a conclusion, the Commission must find that the refusal to employ was based on "such individual's race, religion, color, national origin, or ancestry" (sec. 5 (a) (1)). Since any or all of these factors may enter into personality, the Commission is charged with the impossible task of analyzing the individual's personality to see whether the refusal to hire was based on any of those elements specified in the statute, or was merely the valid exercise of the art of management, based on some other intangible.

The possible number of border-line cases, and the opportunities for petty annoyance and racketeering, stagger the imagination.

These are the characteristics of sumptuary legislation.

Were the bill, like the eighteenth amendment, merely an attempt to regulate conduct outside of the business, so to speak, it would be subject to the same criticism as other sumptuary legislation.

But it is more than this. By striking at management of small business, it strikes at one of the economic foundations of our country. This country needs more prosperous small businesses in every possible line. Already it is difficult enough for small business to succeed financially, in the face of taxation, shortage

of venture capital, Government regulation, unionization with its accompanying rigidity of wage scales, material shortages, and a host of other plagues. Why add another? No matter what the aim or motive, such a bill as S. 984 will definitely burden commerce as far as small business is concerned. For any evil it relieves, it will create a host of others.

Small business just cannot continue taking the rap for measures to improve the lot of this, that, and the other special group—always at the expense of commerce and enterprise. A bill of this kind is a thrust at the vitals of business management.

Regardless of the provisions for judicial appeal, rectification of alleged injury, etc., the bill if enacted cannot fail to become burdensome. Small business simply cannot afford to take these appeals, even if they were to be successful. The small businessman hasn't the funds, the time, or the energy with which to fight the bureaucrats, not just on his doorstep but within the very walls of his employment office.

It is in the successful hiring of help that the small businessman gets his start. Here, if anywhere, he must have complete freedom of judgment. On the exercise of this judgment, the success of his business depends. Hamper the small businessman at this point, and you have done more than you could do anywhere else in his business to cripple it.

Respectfully submitted,

CONFERENCE OF AMERICAN SMALL BUSINESS ORGANIZATIONS.
F. A. VIRKUS.

STATEMENT OF REV. O. WALTER WAGNER AND REV. CHARLES A. HILL, COCHAIRMAN,
COMMITTEE FOR A STATE FEPC, DETROIT, MICH., JUNE 21, 1947

The State of Michigan comprises one of the most highly industrialized areas in the United States.

It is an important manufacturing center, hub of the automotive industry, and employs millions of workers in its factories and offices. During World War II Detroit was the "arsenal of democracy" for planes, ordnance, and munitions of all descriptions. The population of Michigan has always been cosmopolitan in character with a large foreign-born minority. Detroit has 350,000 citizens of Polish origin alone. Since 1914, when the Ford plants started hiring workers at the then unheard-of wage of \$5 a day, a stream of migration toward Michigan industrial areas was set in motion. The First World War cut off the supply of foreign labor and increasing numbers of southerners, both black and white, left their fields and mountains for the North. Between June 1940 and June 1943, it is estimated that 500,000 persons moved into the Detroit area alone, not to mention the many thousands who moved into the other industrial areas of the State. With them, the white southerners brought their racial prejudices and they became the special targets of great numbers of religious and political fanatics who made Michigan their national headquarters.

Increasing attempts were made to demote and replace minority national and racial groups from any skilled jobs they may have had in favor of the 100 percent white American. Intimidation, violence, mob action, wildcat strikes, and even murder were committed by organizations like the Black Legion to achieve this mythical white supremacy.

The serious retardation of the defense program before the outbreak of World War II led to the issuance of Executive Order No. 8802 in 1941 which established a Fair Employment Practice Committee. This was later implemented in 1943 when a new Executive order was proclaimed which clearly stated that "it is the policy of the United States to encourage full participation in the war effort of all persons in the United States regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the Nation can be defended successfully only with the help and support of all groups within its borders," and that "a successful prosecution of the war demands the maximum employment of all available workers regardless of race, creed, color, or national origin."

Without coercive powers, and using informal methods of persuasion and conciliation almost exclusively to secure compliance, FEPC processed nearly 10,000 complaints in 8 years, of which only 2 had to be certified to the President by the refusal of a party to cease discrimination.

Wherever FEPC has been established, similar results have been obtained. The States of New York, Massachusetts, and New Jersey have proved the efficacy of FEPC legislation. Racial and religious friction is avoided when workers are thoroughly integrated in the life of the plant and community. The right to work is the right to live. To refuse equality of opportunity in employment practice to large groups of qualified and employable workers for no other reason except that of prejudice toward their religious customs, the country of their birth, or the particular color of the pigment in their skin, is to refuse to those fellow Americans and their children a number of other rights; they are refused the right to have robust and healthy bodies, the right to a harmonious family life, the right to secure the type of education that will enable them to cope with the demands of modern living whether in war or in peace, and the right to provide for themselves the type of environment permitting the development of desirable moral character and a wholesome attitude toward life. These rights are denied to persons who are denied the means of an adequate income because of being discriminated against in employment.

The people of Michigan are convinced of the necessity for FEPC legislation. They expressed their convictions in the fall of 1946 by securing 200,000 signatures to an initiative petition which called for the placing of FEPC on the ballot. The wishes of the people were denied when the State supreme court dismissed the petitions on a technicality.

The committee for a State FEPC, which sponsored the petition campaign in Michigan, is composed of citizens and organizations from every section of the State who are united in their determination to eliminate discrimination in employment.

The Government has the responsibility of insuring that the citizens of this country can enjoy the fruits of democracy. It is the responsibility of the Government, through Congress, to enact legislation protecting the rights of minority groups. This was recognized during the war when FEPC was established to successfully prosecute the war. It is still more important in peace. We cannot permit limited participation in production at a time when the need for housing, food, and goods of every description is so urgent.

We therefore urge the Congress of the United States to enact into law Senate Bill 984.

Respectfully submitted.

REV. O. WALTER WAGNER.
REV. CHARLES A. HILL.

COMMENTARY OF DONALD R. RICHBERG ON S. 984

OCTOBER 10, 1947.

TO THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE:

In response to a request from the Committee I submit the following commentary on S. 984—A Bill "To prohibit discrimination in employment because of race, religion, color, national origin or ancestry."

THE OBJECTIVES OF THE BILL

It seems to be commonly assumed by opponents as well as by proponents of the bill that no fair-minded person will oppose the objectives of this bill. So, I venture to point out that the dominant objective of the bill is to prohibit and to prevent by governmental action any freedom to choose one's associates or co-

¹ The writer has not been employed or paid by anyone, directly or indirectly, to oppose or to support "anti-discrimination" legislation. He did not even volunteer to prepare this statement, but did so upon a request from the Senate Committee. His ancestry associations and conspicuous public activities should refute any charge of racial or religious bias.

Although a Protestant by ancestry and individual faith, he has, throughout his life, lived and worked as indiscriminately with Catholics, Jews, and free-thinkers as with Protestants. His father was a Lutheran, born in Germany, and his mother an intensely religious Vermont of pure English ancestry. In a widely varied practice of the law, he represented for many years all the railway labor organizations, was principal author of the Railway Labor Act, and a co-author of the Norris-LaGuardia Act and the National Industrial Recovery Act. As a largely gratuitous service he aided in the organization and recognition of the Brotherhood of Sleeping Car Porters.

In his public service, as General Counsel and later Chairman of the N. R. A., and in his voluminous writings, he has made it abundantly clear that he has strong economic and political convictions in favor of a free economy, a democratic government, and individual liberty; and naturally a deep hostility to communism and to all programs and legislation which aid in the spread of communism. This hostility may explain the vigor of his criticisms of S. 984.

workers in business, if that choice is based on considerations of race, religion, color, national origin or ancestry, yet freedom to choose one's associates because of personal liking and confidence, or individual judgment, whether rational or irrational (in the opinion of others), is one of the most essential freedoms of a free citizen which has been for decades guaranteed by the Constitution of the United States. The objective of S. 984 in denying this essential liberty is not admirable but detestable.

Freedom to choose one's associates is essential to a free exercise of the right to earn a livelihood, essential to a genuine liberty of contract, and essential to the free pursuit of happiness. There is nothing inherently wrong in having a preference to work with persons of a particular race, religion, color, national origin or ancestry. If racial and national congeniality is not sinful, then uncongeniality cannot be a sin. Human brotherhood may be a beautiful ideal, but if the congeniality of Chinese to Chinese and French to French and Irish to Irish is a natural feeling and not a vice, how absurd it is to argue that the outgrowing uncongeniality toward other nationalities and races is so wrongful that action based upon it should be forbidden by law!

Of course racial prejudice and intolerance may be an ugly thing, fostering unjustifiable hatreds and leading to wasteful conflicts. All *unreasonable* prejudice and intolerance may be assumed to be evil. But bad thinking cannot be legislated out of the human mind. And how can a government official be endowed with the celestial wisdom necessary to determine whether that which is called "prejudice" and "intolerance" is really evil or is, on the contrary, righteous dislike or hatred? Is it wrong or right for a deeply religion person to prefer not to associate with those who would like to destroy his religion and all its devotees? Is it wrong or right for a free individualist to object to enforced association with a fanatic communist, who seeks to enslave him?

If S. 984 were the law, the management of a religious publication (for profit) would be forbidden to discriminate against atheists or hostile religionists who might be "qualified," but certainly would not be cooperative employees. The manufacturer of religious articles or books, desirous of maintaining a harmonious organization and satisfied customers, would be compelled to employ "qualified" but cynical and disingenuous associates to make and sell his products.

The Congress is forbidden to make any law "prohibiting the free exercise" of religion. But this law prohibits a man from freely exercising his religion in carrying on a business in association with others who are of like faith. The maker of food products, drugs or sewing machines may desire to have the ethical standards of his religion effective throughout his business organization; but this proposed law would deny him this privilege—this constitutionally guaranteed liberty. The constitutional invalidity of such a law only emphasizes the point that the objective of the law, as a denial of freedom of association, freedom of contract and freedom of religion, is *not* a righteous, but a thoroughly unrighteous objective.

Before analyzing the bill in detail, let us glance ahead toward the ultimate objectives of such legislation and catch a glimpse of the society which the progress of such lawmaking will eventually create.

If the government is to undertake to prohibit and prevent all unjust discriminations in employment, why stop with "race, religion, color, national origin or ancestry"? The Charter of the United Nations, which is dragged into the Policy statement, also deprecates distinctions as to "sex" and "language." There are, furthermore, notorious discriminations in employment because of "age," and persons are frequently not hired because "too old" or "too young." Many persons are refused employment because they are "tall" or "short" or "fat" or "thin" or "sleeky" or "partially disabled," or because they have "hullosls" or "body odor."

Thousands upon thousands of persons are always being denied employment for such discriminatory reasons. A government bureau would certify most of them as "qualified"; but, "by accident of birth" or otherwise without personal fault, they do not appeal to the employer as desirable employees. If the employer (of more than 50 persons) is to be regarded as a mere instrument of state policy who can be required to employ anyone whom a government bureaucrat finds to be "qualified" for a particular job, why should not all employments be made through a government agency? This would save a great deal of time and energy which will otherwise be wasted in litigations between government and employers. Then the employer would have nothing to do except to try to run his business with "civil service" employees furnished by the government and made secure in their jobs and in advancement, as provided in Section 5 (a) (1) of S. 984. The

plain fact is that the function of the employer in private enterprise, and the system of private enterprise itself, would soon disappear as the high sounding objectives of antidiscrimination laws were logically developed.

It is worth noting, however, that the most clearly undemocratic and unjustifiable discrimination now practised in employment is not prohibited by S. 984. The employer would still be permitted to deny employment and the opportunity to earn a livelihood to any man on the ground that he did not belong to a private organization known as a labor union. This discrimination, which is forced on employers by a labor union which demands a job monopoly, such as a "closed shop," is the most indefensible violation of constitutional liberty that has ever been widely tolerated in the United States. There may be a very good reason for disqualifying a person from a particular employment because of race, religion, color, national origin or ancestry. But, to deny a man a right to work unless he submits to the taxation and discipline of a private, unregulated organization, is a wrong for which there should be a complete remedy, and not any further support, in the federal law.

Proponents of S. 984 will of course refer to Sec. (3) (b) as providing an answer to this criticism; but there is no answer there. (Sec. (3) (b) does make it unlawful for a labor organization to limit or classify its membership so as to discriminate against a person because of race, religion, color, national origin or ancestry. This, however, does not prevent any labor union from continuing an internal control and maintaining in effect a great variety of regulations which would continue the present discriminations which are practiced against those who are not favored by the labor officials who run the unions.

But, even if there were no discriminations within the organization, it is not made an unlawful employment practice for an employer to deny employment to a nonunionist. So here we see proposed a law to prohibit supposedly wrongful discriminations in employment which fails to prohibit the most obviously wrongful discrimination that is practiced today against a free citizen who is seeking to earn a living.

It is the law today that an employer shall not discriminate against an employee, or an applicant for work, because he is a member of a labor union. But it is not the law today that he shall not discriminate against him because he is not a member of a labor union. That might be a good place to begin the writing of an antidiscrimination law—if any such law should be written.

When, however, the manifold defects, illegalities and improprieties of S. 984 are made clear on detailed examination it may become evident that no such antidiscrimination law should be written and no attempt should be made to impose such controls over the minds and activities of a people who believe in individual liberty.

DETAILED ANALYSIS

Section 2 (a).—The findings of fact and declaration of policy by the Congress are not conclusive as to the need or propriety or constitutional validity of a law. Any statement that is of a debatable character and accuracy may be challenged. The statement that discrimination in employment "is contrary to the American principles of liberty and of equality of opportunity" is opposed to a widely held belief that liberty and equality of opportunity require freedom in an employer to make a discriminating choice of employees, and freedom in the employee to make a choice of an employer. Liberty of contract, freedom of association, and religious freedom are established constitutional principles and subject only to such limitations as are absolutely necessary to protect the good order of society and to prevent injuries to others and undue restrictions upon the freedom of others.

The statement that discrimination "forces large segments of our population into substandard conditions of living" is also highly debatable since it is difficult to understand how the forced employment of one person in place of another can improve the standard of living of the displaced person. Likewise the statement that discrimination "deprives the United States of the fullest utilization of its capacities for production" is essentially a fundamental attack upon the theory of a free, competitive economy. So long as competition is the rule of industry necessarily the most successful enterprises must be those that utilize the services of the most capable persons who can be organized to work cooperatively to advance common interests. To insist that the government shall undertake to determine how and what employees shall be selected, and thus to restrict competition and the competitive judgment of the managers of private enterprise, is

to undermine the very foundations of private enterprise and a competitive system. Paragraph (a) is simply an oratorical justification of legislation based on assumptions which cannot be regarded as findings of fact.

Section 2 (b).—The declaration that the right to employment without discrimination "is hereby recognized and declared to be a civil right of all the people of the United States" is a declaration quite beyond the power of the Congress of the United States. It has been repeatedly held that any power to create a civil right, unless specifically delegated to the United States by the Constitution, has been reserved to the separate States.

In *Hodges v. The United States*, 203 U. S. 1, the law is made clear in the following quotation from the earlier *Slaughter House Cases*:

With these decisions, and many others that might be cited, before us, it is vain to contend that the Federal Constitution secures to a citizen of the United States the right to work at a given occupation or particular calling free from injury, oppression, or interference by individual citizens.

Even though such right be a natural or inalienable right, the duty of protecting the citizen in the enjoyment of such right, free from individual interference, rests alone with the state (Page 18).

Reference should also be made to the case of *United States v. Wheeler*, 254 U. S. 281, wherein again the Court approved a quotation from the *Slaughter House Cases*, as follows:

It would be the vainest show of learning to attempt to prove by citations of authority that, up to the adoption of the recent amendments, no claim or pretense was set up that those rights depended on the Federal government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the states—such, for instance, as the prohibition against ex post facto laws, bills of attainder, and laws impairing the obligation of contracts. But, with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the states, as above defined, lay within the constitutional and legislative power of the states, and without that of the Federal government.

It is interesting to note that there was only one dissent from the opinion of the Court, delivered by the Chief Justice, in *United States v. Wheeler*, and also to note that the successful argument in the case was made by Mr. Charles E. Hughes, subsequently Chief Justice.

It will, of course, be argued that the power of the Federal government over interstate and foreign commerce provides a constitutional basis for the proposed law. But, in the first place, the Act only purports to apply to persons "engaged in commerce or in operations affecting commerce" (and to employers employing fifty or more individuals) whereas paragraph (b) undertakes to create a civil right for "all the people of the United States."

In the second place, the use of the commerce power as the authority for legislation to establish a new "civil right" merits the condemnation expressed in a dissenting opinion of the late Justice Holmes wherein he said: "I should regard calling such a law a regulation of commerce as a mere pretense." In the same opinion Justice Holmes went on to comment that any legislation attempted for the purpose of disintegrating society "into individual atoms" would be "an attempt to reconstruct society"; and he said: "I am not concerned with the wisdom of such an attempt but I believe that Congress was not entrusted by the Constitution with the power to make it and I am deeply persuaded that it has not tried" (193 U. S. 197, 400).

The proposed law goes to the other extreme and is "an attempt to reconstruct society" by subjecting all private enterprise to regulation by the State for the purpose of substituting the moral judgment of a political majority for the independent judgment of an employer as to those persons with whom he wishes to associate himself in the activities of a private business enterprise. The sustaining of such an authority in the Federal government would open the door wide to the complete domination of private business by the State and, as has been pointed out, the gradual but sure destruction of private enterprise.

Recent opinions of the Supreme Court have destroyed the doctrine of the famous *Adair case* (208 U. S. 161) and as a result laws have been sustained forbidding employers in interstate commerce to discriminate against employees or would-be employees on the ground of membership in labor unions. Accordingly, it is appropriate to refer to the dissenting opinion of Justice Holmes in the *Adair case* in which he pointed out that such an anti-discrimination law involved "a very limited interference with freedom of contract." He went on to say: "It does not require the carriers to employ anyone. It does not forbid them to refuse

to employ anyone, for any reason they deem good * * *." One can hardly assume that the great liberal Justice would regard a law as constitutional which required an employer to employ a particular person and forbade him to refuse to employ a particular person. Such a law could hardly be called "a very limited interference with freedom of contract."

In the *Coppage* case (238 U. S. 1), commonly linked with the *Adair* case, Justice Holmes expressed his approval of establishing "equality of position between the parties in which liberty of contract begins." Let it be asked how much equality of position and liberty of contract is established by a law under which one man can demand employment where he will (and refuse it where he will) but another man must employ him despite his judgment that "race, religion, color, national origin or ancestry" makes the applicant an undesirable employee?

As a final criticism of the proposed declaration of a "civil right" it should be mentioned that even the right of a State to limit the employer's freedom and to limit the right to work of would-be employees who might have a natural advantage by virtue of race, color, or religion, may be questioned in view of the provisions of the Ninth and Tenth Amendments. Among the rights supposed to be "retained by the people" it can be reasonably asserted that freedom of association in business as well as society has always been regarded as a right inherent in a free people.

Nothing in the proposed law requires a wage earner to work for a particular employer. That, of course, would violate the Thirteenth Amendment. But, an employer, in establishing an employment relation, accepts many obligations by law and custom to his employee. If an employer is required either to serve employees not of his selection or else to go out of business, is he not given a choice between either not engaging in business or of accepting a form of "involuntary servitude"? The proposed law would thus compel every substantial employer to accept involuntary servitude as a condition of engaging in a lawful business. It would be invalid under the Thirteenth Amendment.

Section 4.—This Section exempts from the operation of the Act States and subordinate agencies, and various organizations not for private profit. The exemption of State employments was made on the obvious basis that the Federal government has no authority over these. But the exemption of charitable, educational and sectarian organizations was evidently made simply for the purpose of avoiding opposition from those who would have strong reasons for discrimination. So these employers are left with a freedom which is to be permissible also in local business—including all small agricultural enterprises—while this freedom is denied to all sizable employers for profit engaged in interstate commerce. Yet the question remains as to why, if the proscribed discrimination is an evil should it be permitted to nonprofit organizations that are also subject to Federal authority?

Section 5 (a) (1).—It is here made unlawful not only to discharge existing employees but also "to refuse to hire" a person or to discriminate against him "with respect to his terms, conditions, or privileges of employment." Previous comment should be sufficient as to the evil and invalidity of coercing the judgment of an employer in the matter of hiring a new employee. In addition, attention should be directed to the disintegrating effect upon a business organization of the further prohibition of discrimination as to "conditions or privileges of employment." This vague language certainly permits the construction that the privilege of promotion (in accordance with regular practice or absolute discretion) is also to be subject to government regulation. The right of an employer to exercise his best judgment in the matter of promotion is an essential feature of managerial control and, by contract with a labor organization or with an individual, the management may create in advance a right to promotion. Such is often the effect of seniority rules. But in these cases the management is presumably free to make or not to make the contract. Under the proposed law this managerial freedom would be subordinated to the judgment of a Federal bureaucrat as to whether a "properly qualified" employee had been wrongfully denied an advancement, by giving it to another. It is hard to imagine any form of government interference which would be more destructive of ownership control and managerial authority in the conduct of a private enterprise.

Section 5 (a) (2).—This paragraph prohibits the utilization, in hiring employees, of any employment agency, school, labor organization "or any other source" which discriminates against persons because of race, religion, color, national origin, or ancestry. This would mean that any specializing agency or school would be excluded unless the operators were able to certify, not only that

their doors were wide open, but that, even if theoretically wide open, the institutions were not so conducted as to discourage the entrance of all races and religions. The question would arise as to whether negro schools and colleges would be permitted to recommend their students or graduates. They might claim, as in the case of Howard University, that they had some white students but, being recognized as predominantly a negro school, would it not be contended that they were in reality discriminatory?

Next arises the question as to whether Catholic schools would also be regarded as discriminatory, even if they permitted non-Catholics to enter. Or would a school making a particular appeal to persons of one national origin be regarded as discriminatory? For example, an Italian or Polish school to train immigrants not speaking English would be clearly discriminatory—as would any agency to train or to find jobs for displaced Jews.

Section 5 (b).—There is a reasonable basis for making it unlawful for a labor organization to discriminate against individuals, because the Federal law provides that exclusive bargaining power shall be exercised by the labor organization selected by a majority of the employees. As the Supreme Court pointed out in a recent case, such an organization, by having the advantage of a legal right to represent the employees of a certain class should be required by law to represent them all without discrimination and for that purpose to be responsive to the wishes of all those represented, which would be insured by the right of all those represented to participate in the organization. The question remains, however, as to whether a labor organization, not seeking or authorized to represent more than its members, should be required to associate in its membership other persons. If, for example, the craftsmen employed by a single employer decided to bargain only for themselves, making no requirement of the closed shop, should not employer and employees be free to make such a contract?

It was pointed out by the Supreme Court in one case that the right of a labor organization to bargain for a class did not necessarily exclude the right of an individual to make an individual contract with his employer. It was indicated, in fact, that such a right could not be legally denied.

In *Virginian Ry. Co. v. System Federation No. 40*, 300 U. S. 515, it was held:

The provisions of the Railway Labor Act invoked here neither compel the employer to enter into any agreement, nor preclude it from entering into any contract with individual employees. They do not "interfere with the normal exercise of the right of the carrier to select its employees or to discharge them."

The question may also be raised as to whether there is anything essentially wrong and properly subject to legal prohibition in the desire of men or women of a particular race or religion or nationality to associate themselves together for advancement in a work for which they may be specially adapted or by tradition be supposed to have a special aptitude. It happens that negroes have been almost exclusively employed as Pullman car porters and it may properly be asked: Why should this negro union be required to open its membership to whites or to the yellow and brown men of the Far East. Traditionally Frenchmen are supposed to be exceptionally fine cooks. Why should an organization of French chefs be outlawed? There are Swiss watch makers who might logically desire to associate together, as might glass blowers or lace makers and other artisans whose ability is commonly related to national origin. If workers desire to associate themselves for advancement without assuming to monopolize employments, why is that not an exercise of constitutional freedom with which not even the States, and certainly not the Federal government, should interfere?

Section 8.—The creation and empowering of the Commission is provided for in the customary manner but there is a provision in Paragraph (g) (7) which is unusual and calls for comment. This authorizes the creation of local conciliation councils which may be employed by the Commission to "study instances of discrimination" (which means in plain language "to investigate") and to make recommendations of "procedures in general and in specific instances" (which means in plain language "to instigate Commission action"). The members of these volunteer councils serve without pay but are entitled to expenses, including the expense of "technical and clerical assistants." This all means that the Commission can finance the investigations of volunteer organizations and thus create squads of volunteer investigators to stir up and intensify controversies and thereby inevitably to promote the racial and religious prejudices and antagonisms which the Commission is organized for the ostensible purpose of allaying. As a government policy the financing and encouragement of volunteer groups for such purposes is one of doubtful wisdom.

Section 7 and Section 8.—Section 7 provides for enforcement of the law through the Commission and Section 8 for a so-called "judicial review." As a matter of fact actual enforcement is the function of the courts. But, as usual in the creation of an administrative commission, the purpose is to have the Commission do the detailed work of enforcement and to have the courts lend the sanction of judicial authority to administrative orders that otherwise would be unenforceable.

In the present instance, however, the Commission is evidently expected to prevent discrimination primarily by conciliation and only to resort to the issuance of compulsory orders when conciliatory efforts fail. The mingling of the functions of conciliation and compulsion in one government agency has been repeatedly demonstrated to be unwise. The conciliator, armed with a club, is not regarded as a friendly counselor, but as an incipient prosecutor. When he also possesses the power not only of prosecuting but also of rendering an enforceable judgment against the respondent, his persuasion takes on the immediate character of coercion. If the Commission were to be established as an agency of conciliation the Commission should not be endowed with prosecuting and judicial authority. Indeed, it would save a great deal of duplication and wasted time if the law were to provide for a trial *de novo* in the District Court of any complaint of discrimination, with the taking of evidence before a judicial referee and a decision by the Court upon the record of its own proceedings.

The desirability of this separation of authority is made clear by the provision in Section 7(a) that nothing said or done during conciliation conferences "may be used as evidence in any subsequent proceeding." Of course, conciliation efforts would be hopeless if the parties were required to avoid any decisions or any concessions which might subsequently be used against them. But the idea is fantastic that the same agency which might subsequently prosecute and adjudicate a complaint would not have its judgment effected by pre-trial discussions and negotiations. Government agencies are composed of human beings and human beings make up their judgments on the basis of their information and impressions, no matter when or where received. Every lawyer knows that the instruction to a jury to disregard incompetent testimony does not repair the harm done by permitting the jury to hear such testimony.

It is well understood by lawyers who have practiced before the Federal Trade Commission or the National Labor Relations Board or any similar body, that the power of the agency to issue an order will compel respondents to recede from the maintenance of a legal right or a justifiable contention in many cases where the cost and other losses of litigation will be more onerous than unwilling acquiescence. Thus the persuasive powers of the proposed Commission, coupled with its coercive powers, would inevitably compel employers in a host of cases not to insist on a legitimate exercise of liberty of contract. This may seem desirable to those fanatically insistent upon eliminating alleged discriminations but it would permit the use of governmental power to accomplish results which sincere proponents of the law could not justify.

It was demonstrated over and over again under the National Labor Relations Act that if an employer had ample justification for the discharge of an employee, but at the same time the employee could raise a reasonable question as to whether his union activities had entered into the employer's considerations, the judgment would favor the employee. Thus under the proposed law if, for example, a negro were denied employment by an employer who had few or no negro employees, the burden of proof would in reality be shifted to the employer to prove a negative—that is to prove that he did not refuse employment because of color, but refused for other reasons such as competence for the particular job, or competence to progress from the particular job into other jobs in the normal course of developing an efficient organization.

Section 7 (4).—This Section carries into effect again the very troublesome and often highly unjust provision of the Wagner Act when it provides that, if the Commission finds there has been an unlawful discrimination, it may order the employer not only to cease and desist from this conduct but also to reinstate or hire an employee "with or without back pay." There may be some justification for ordering reinstatement and back pay to an employee who has been wrongfully discharged, but the provision for requiring an employer to hire a person who has never been an employee and to pay him back pay for the period during which he might have been employed imposes an unconscionable obligation, which should be also regarded as illegal. The back pay for a person who has never been employed is simply a penalty imposed upon an employer, not for wrongful treatment of an employee to whom he has assumed certain obligations, but

because the employer has violated a duty owed to the government. Such a penalty is in the nature of a fine, not to be paid to the government, but to a private person with whom the employer has no relationship and to whom he has no obligation. Hearing before the Commission and subsequent court review does not afford a trial by jury, although this is definitely in the nature of a criminal prosecution, in which the right of trial by jury is guaranteed by the Sixth Amendment.

A Constructive Suggestion.—If there be any merit in the claim that discrimination in employment does have an adverse effect upon interstate and foreign commerce, it should be clearly determined in every case that there is such an effect which is so substantial that it justifies coercive action by the Federal government. To deal with such a situation a Commission might be organized to investigate any case of persistent discrimination by a large employer which, being without any reasonable basis, results from unjustifiable prejudices against a particular race, religion, color, national origin or ancestry. It would be necessary to show in such an investigation that such discrimination was not necessary to maintain industrial tranquillity and a cooperative force, or to satisfy customer requirements, or to meet the special needs of a particular enterprise.

After such an investigation and a report with findings of fact as to the unjustifiable nature of the discriminatory practices and as to their substantial effect upon interstate commerce, then interested persons or organizations might be authorized to apply to a court for a restraining or mandatory injunction to correct the evil. The report of the Commission might be utilized as a *prima facie* showing, with an opportunity provided to introduce contrary and supporting evidence. Thus there would be no coercive action of the government authorized except for the purpose of preventing that which had been demonstrated to be a substantial impediment or injury to interstate commerce.

The point here made is that, if the freedom of employers and employees to exercise liberty of contract in establishing and maintaining an employment relation is to be limited by law, such a limitation should only be imposed against those persons who in a particular instance are carrying on a course of conduct which adversely and substantially affects interstate commerce. The program of imposing uncertain and dubious obligations upon every large employer, with wholesale restraints on the daily exercise of judgment in hiring, discharging and dealing with employees, amounts simply to attempted assertion of Federal authority over the daily exercise of managerial judgment—a wholesale crippling of private enterprise.

Section 9.—The investigatory powers given to the Commission are subject only to the primary criticism that no such coercive Commission should be established, and to the secondary criticism that nation-wide investigations of this character must inevitably add to the present burdens and difficulties of carrying on private business under continuing government scrutiny and restraint, and also aid in fomenting racial and religious antagonisms which admittedly do not help in the successful administration of a democratic government.

Section 10.—This Section grants power to the President to establish rules and regulations to prevent discriminations by any person having a contract with any agency of the United States, and thereby permits the President to enact a sort of Walsh-Healey Act by executive order. The intended effect is of course to make the law enforceable by executive action against any business organization which wishes to sell anything to the government and to provide a consequent short-cut for enforcement.

Presumably the President would require every contractor to agree to comply with the law as administered by the Commission. Thus the contractor would have to obligate himself to waive a legal right to a free exercise of judgment in the selection of his employees. Also such a contract might require the contractor to agree to compliance in all his operations although only a small force might be employed in fulfilling the government contract. The inevitable result would be that many large and small organization, which are not particularly anxious to sell to the government if any other consumer is available (because of the complex and restrictive requirements), would not seek government contracts. In these difficult times when the needs of national defense and of many government services require the cooperative aid of a host of private enterprises, it would seem to be a very dangerous and mistaken government policy to make government contracts more undesirable and further to discourage private enterprise from seeking such contracts.

Section 11.—The requirement that notices shall be posted giving information regarding the Act is a natural one since, when a law is enacted those who are

to be affected by it should be fully informed. But it should again be pointed out that this requirement emphasizes the inevitable effect of the proposed law in fomenting and intensifying racial and religious prejudice and intolerance.

Section 12.—This Section, in maintaining the special rights and privileges created for veterans under other laws, gives an interesting demonstration of the fact that all discrimination is not necessarily evil. There is a sound basis for a discrimination in favor of veterans in the fact that these men were displaced from their normal occupations and subjected to the dangers and trials of military service, and should be given a preference in regaining employment as civilians. But even veterans are not given such protections against discrimination by employers as are sought to be extended to those whose race, religion, color, national origin, or ancestry, may have some conscious or unconscious effect upon the judgment of an employer.

Section 13.—It is here made a crime to "forcibly resist, oppose, impede, intimidate, or interfere with a member agent or employee of the Commission while engaged in the performance of duties under this Act."

This sounds like a reasonable provision, but attention should be directed to the fact that many groups of employees in different parts of the country did resist and oppose efforts of the Fair Employment agency established during the war to compel employers to employ particular persons. No one can estimate the number or extent of labor controversies which might arise through efforts to enforce the proposed law; but it is quite reasonable to suppose that American workers, who are persons of independent spirit and great capacity for organized action, may be inclined in a great many instances to resist enforced association with other workers against whom they have unreasonable but nevertheless strong prejudices. When we observe the vigor and extent of opposition being manifested by organized workers to the enforcement of the Taft-Hartley Act, which was certainly intended to promote industrial peace, we can assume that large groups of American workers are likely to resist and to impede enforcement of this proposed law. It might well be entitled "an act to promote industrial dissension and inefficiency and to increase racial and religious prejudice and intolerance."

SUMMARY OF UNCONSTITUTIONALITY OF S. 984

1. The attempted creation of the proposed "civil right" is unconstitutional, because this is beyond the delegated legislative power of the Federal government. Section 2 (b) is therefore in violation of the Tenth Amendment.

2. The attempt to compel employers to hire undesired persons and to deny employment to desired persons, and to substitute governmental judgment for personal judgment as to the qualifications and desirability of persons for employment and advancement, is a serious and indefensible denial of liberty of contract, in violation of the Fifth Amendment.

Section 5 furthermore prohibits a free exercise of religion, in violation of the First Amendment.

It also imposes arbitrary restraints on freedom of association in business, in schools, and in labor organizations, denying an essential liberty of a free people, in violation of the Fifth Amendment.

It also denies to a minority of those operating private enterprises the same liberty of contract and the same freedom of association which are preserved for the majority, thus violating the constitutional guarantee of "equal protection of the laws," which is implicit in the Fifth Amendment.

It would operate to impose a species of involuntary servitude upon employers, in violation of the Thirteenth Amendment.

3. The provision of Section 7 (1), which, in effect, would authorize an administrative commission to fine an employer for refusing to hire a particular applicant for employment, attempts to sanction a criminal prosecution without a trial by jury, in violation of the Sixth Amendment.

GENERAL CONCLUSIONS

Illiberal obstructionists frequently oppose progressive legislation on the ground that it is "socialistic." Reactionaries habitually denounce as "communistic" laws proposed to advance economic and social justice, to aid the underprivileged, to promote better conditions of employment, and to allay political discontent. But, such laws are often intended and definitely designed, and sometimes are effective, to check the spread of communism.

A genuine liberal should therefore hesitate to describe any proposed legislation as "communist" unless he feels positive that it would give substantial aid and comfort to those who are engaged in undermining a free economy and democratic government and in preparing the way for communism.

But when a bill, such as S. 984, proposes to destroy the constitutional liberty essential to a free economy, and to provide communists with a new and powerful leverage for disintegrating American industry, then any genuine liberal is obliged to say: The alleged "humanitarian and democratic" purpose of this legislation is only a fraudulent cloak to conceal its communistic purpose—and its inevitable effect—to make a competitive system of private enterprise unworkable and to bring about industrial chaos and eventual collapse.

It would be absurd to suggest that the distinguished sponsors of S. 984 would endorse this bill if they agreed with my analysis of its legal weaknesses or with my convictions as to the aid and encouragement it offers to subversive forces. But, I am so convinced that sponsorship of such legislation is a triple disservice to America, that I cannot conclude my commentary without pointing out exactly how this propaganda for a "fair employment practice law" is designed and effective to undermine American institutions and to advance international communism.

It seems to be a lesson of history that the more obvious an evil is, the more likely it is to be ignored. Both Hitler and Stalin have proved that the way to get a lie accepted is to repeat it constantly. And so persistent restatement of the obvious and reassertion of simple truths seems necessary to demonstrate the evil fraud is being perpetuated in the guise of "fair employment practice" legislation.

1. The program of the Russian communists is just as obvious today and its menace to the United States is just as clear as the program and menace of Hitlerism was in 1939.

2. Communism while using military force to spread itself over Europe (just as Hitler's fascists did) has a far more dangerous and widespread preparation for world conquest—because it exists, both openly and underground, all over the world as a political-industrial organization of alleged "citizens" working to overthrow their government.

3. The revolutionary procedure is, first, to promote industrial disorganization, with the object that ultimate chaos and widespread unemployment and privation will make it possible for a well-organized insurrection then to seize key positions and to terrorize the people into submission.¹ In the hour of revolution helps the communists, working through the unions, to organize a labor army with open support from other previously communized nations will insure permanent victory.

4. The key to industrial disorganization lies in control of labor unions. Any one who knows anything about the American labor movement today must know that the communists have made amazing progress in recent years in gaining official positions of power and in converting large numbers of the rank and file in many unions.

5. The dominant purpose of the communists unfortunately, coincides with the intent of most labor leaders: They are determined to substitute union discipline for management discipline. Every labor agreement and every law that diminishes the essential authority of the employer and increases the authority of the union helps the communists, working through unions, to organize a labor army with ever-increasing power to wreck industries and to defy the government. The political industrial catastrophes of 1946 offer a small but menacing preview of the lawless chaos into which a few large militant labor unions could plunge the country in a time of extraordinary economic or political stress and strain.

It has already been proved that these disciplined labor forces can be so fooled and intimidated by cunning plotters that hundreds of thousands of good Americans, apparently led by good Americans, can be wangled into labor wars that can have no possible result except to waste their earnings and to deteriorate the sources and means of their making a good living.

¹ "A revolution takes place only when there is no other way out. . . . The fundamental premise of a revolution is that the existing social structure has become incapable of solving the urgent problems of development of the nation. . . . The ruling classes, as a result of their practically manifested incapacity to get the country out of its blind alley, lose faith in themselves; the old parties fall to pieces; a bitter struggle of groups and cliques prevails; hopes are placed in miracles or miracle workers." Trotsky, *History of the Russian Revolution*, Vol. III, Chapter VI "The Art of Insurrection."

6. If the "fair employment practice" program had not been originally devised by communist strategists they would have been ashamed of their stupidity. As a matter of fact it was a logical outgrowth of their orthodox plan. At the root of communist ideology is the delusion of "discrimination." A lot of people are miserable (they are told) not because of their own inherent or cultivated weaknesses, but because other men use their inherited or acquired power to oppress them. The remedy (they are told) is to have the State (a deceptive name for a tyrannical ruling class) control all power and divide up the proceeds of State enterprises "without discrimination."

The program proceeds logically. The first step is to appeal to the least prosperous to fight "discrimination." "Join the labor union and we will all fight the employers together and stop them from discriminating against anyone." But, the old line unions were very discriminatory themselves. The craft unions aimed at giving a preferred earning power to skilled workmen—and at preserving monopolies of skilled employments.

7. The communists naturally directed their efforts to the establishment of industrial unions. The early I.W.W. and "one big union" movement were clearly communistic. In recent developments the industrial unions have cleverly adopted the slogan of "democracy." They open their doors to the lowest paid, unskilled workers. They preach "anti-discrimination" and so appeal to every element of society that suffers any disadvantage because of racial or religious prejudice. But the ultimate object of the communist strategy is not to create a democratic equality of opportunity through the exercise of individual liberty, but to create a uniform subservience to the political oligarchy that must rule the all-powerful government of a socialized society.

8. To those who understand the communist program it is crystal clear that the present drive to control labor union policy, to render private management incapable of continuing the productive efficiency of private enterprises, and periodically to prevent private enterprises from functioning to satisfy consumer needs and to provide a livelihood for worker-consumers, is directed toward gradually paralyzing private management by every variety of labor union regulation and government regulation which can be devised.

9. Every demand of organized labor for management control and every demand for legislation to substitute political regulation for managerial discretion will be supported by communist agencies as an aid to weakening the power of private enterprise to meet its obligation to produce necessities and to provide employment and earnings through which the masses of the workers can retain the high standard of living which competitive capitalism under democratic government has achieved.

10. Every such demand is, of course, popularized by alleging that its objectives are a humanitarian improvement in the living conditions of the less fortunate and underprivileged members of society and a "democratic" elimination of all discriminations and special privileges that may give unjust advantages to anyone by "accident of birth."

11. Society, through government, may be able to eliminate the special privileges of money inheritance by "accident of birth." But, government cannot eliminate the disadvantages of weaknesses of mind or of body resulting from the "accident of birth." Nor can government by legislation eliminate the congeniality or uncongeniality of individuals which either makes it possible for them to work together or make it difficult for them to work together because of disharmonies which may or may not spring from difference in race, religion, ancestry, or education. But, government, by attempting to restrict association resulting from personal choice and to compel association according to political policy, can intensify normal prejudices and dislikes and can transform the efficiency of voluntary cooperation into the inefficiency of enforced cooperation. Government, by denying the right of free association in enterprises for common benefit, can destroy the discipline of voluntary cooperation and make it necessary to substitute the discipline of compulsory labor in order to maintain the continuous production of necessities which is essential for the existence of human beings in modern society.

12. Government by the enforcement of political controls over private management, such as are proposed in S. 984, can make inevitable the failure of a private enterprise system and thus inevitable State ownership and control of all essential enterprises. This is the objective of communism; and the "fair employment practice" legislation embodied in S. 984 would furnish incalculable aid to communists in their efforts to attain that objective.

Respectfully submitted,

DONALD R. RICHESON

[S. 984, 80th Cong., 1st sess.]

A BILL To prohibit discrimination in employment because of race, religion, color, national origin, or ancestry

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Act Against Discrimination in Employment."

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the practice of discriminating in employment against properly qualified persons because of their race, religion, color, national origin, or ancestry is contrary to the American principles of liberty and of equality of opportunity, is incompatible with the Constitution, forces large segments of our population into substandard conditions of living, foments industrial strife and domestic unrest, deprives the United States of the fullest utilization of its capacities for production, endangers the national security and the general welfare, and adversely affects the domestic and foreign commerce of the United States.

(b) The right to employment without discrimination because of race, religion, color, national origin, or ancestry is hereby recognized as and declared to be a civil right of all the people of the United States.

(c) This Act has also been enacted as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

(d) It is hereby declared to be the policy of the United States to protect the right recognized and declared in subdivision (b) hereof and to eliminate all such discrimination to the fullest extent permitted by the Constitution. This Act shall be construed to effectuate such policy.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" indicates one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any organized group of persons and any agency or instrumentality of the United States or of any Territory or possession thereof.

(b) The term "employer" means a person engaged in commerce or in operations affecting commerce having in his employ fifty or more individuals; any agency or instrumentality of the United States or of any Territory or possession thereof; and any person acting in the interest of an employer, directly or indirectly.

(c) The term "labor organization" means any organization, having fifty or more members employed by any employer or employers, which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment.

(d) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between any State, Territory, or the District of Columbia and any place outside thereof; or within the District of Columbia or any territory; or between points in the same State but through any point outside thereof.

(e) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

(f) The term "Commission" means the National Commission Against Discrimination in Employment, created by section 6 hereof.

EXEMPTIONS

SEC. 4. This Act shall not apply to any State or municipality or political subdivision thereof, or to any religious, charitable, fraternal, social, educational, or sectarian corporation or association, not organized for private profit, other than labor organizations.

UNLAWFUL EMPLOYMENT PRACTICES DEFINED

Sec. (a) It shall be an unlawful employment practice for an employer—

(1) to refuse to hire, to discharge, or otherwise to discriminate against any individual with respect to his terms, conditions, or privileges of employment, because of such individual's race, religion, color, national origin, or ancestry;

(2) to utilize in the hiring or recruitment of individuals for employment any employment agency, placement service, training school or center, labor organization, or any other source which discriminates against such individuals because of their race, religion, color, national origin, or ancestry.

(b) It shall be an unlawful employment practice for any labor organization to discriminate against any individual or to limit, segregate, or classify its membership in any way which would deprive or tend to deprive such individual of employment opportunities, or would limit his employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such individual's race, religion, color, national origin, or ancestry.

(c) It shall be an unlawful employment practice for any employer or labor organization to discharge, expel, or otherwise discriminate against any person, because he has opposed any unlawful employment practice or has filed a charge, testified, participated, or assisted in any proceeding under this Act.

THE NATIONAL COMMISSION AGAINST DISCRIMINATION IN EMPLOYMENT

Sec. 6. (a) There is hereby created a commission to be known as the National Commission Against Discrimination in Employment, which shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years, but their successors shall be appointed for terms of seven years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the cases it has heard; the decisions it has rendered; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the cause of and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

(e) Each member of the Commission shall receive a salary of \$10,000 a year.

(f) The principal office of the Commission shall be in the District of Columbia, but it may meet or exercise any or all of its powers at any other place and may establish such regional offices as it deems necessary. The Commission may, by one or more of its members or by such agents as it may designate, conduct any investigation, proceeding, or hearing necessary to its functions in any part of the United States. Any such agent designated to conduct a proceeding or a hearing shall be a resident of the Federal judicial circuit, as defined in sections 116 and 308 of the Judicial Code, as amended (U. S. C. Annotated, title 28, secs. 211 and 450), within which the alleged unlawful employment practice occurred.

(g) The Commission shall have power—

(1) to appoint such agents and employees as it deems necessary to assist it in the performance of its functions;

(2) to cooperate with regional, State, local, and other agencies;

(3) to pay to witnesses whose depositions are taken or who are summoned before the Commission or any of its agents the same witness and mileage fees as are paid to witnesses in the courts of the United States;

(4) to furnish to persons subject to this Act such technical assistance as they may request to further their compliance with this Act or any order issued thereunder;

(5) upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this Act, to assist in such effectuation by conciliation or other remedial action;

(6) to make such technical studies as are appropriate to effectuate the purposes and policies of this Act and to make the results of such studies available to interested governmental and nongovernmental agencies; and

(7) to create such local, State, or regional advisory and conciliation councils as in its judgment will aid in effectuating the purpose of this Act, and the Commission may empower them to study the problem or specific instances of discrimination in employment because of race, religion, color, national origin, or ancestry and to foster through community effort or otherwise good-will, cooperation, and conciliation among the groups and elements of the population, and make recommendations to the Commission for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens residents of the area for which they are appointed, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the Commission may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

PREVENTION OF UNLAWFUL EMPLOYMENT PRACTICES

SEC. 7. (a) Whenever a sworn written charge has been filed by or on behalf of any person claiming to be aggrieved, or a written charge has been filed by a member of the Commission, that any person subject to the Act has engaged in any unlawful employment practice, the Commission shall investigate such charge and if it shall determine after such preliminary investigation that probable cause exists for crediting such written charge, it shall endeavor to eliminate any unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during such endeavors may be used as evidence in any subsequent proceeding.

(b) If the Commission fails to effect the elimination of such unlawful employment practice and to obtain voluntary compliance with this Act, or in advance thereof if circumstances so warrant, it shall cause a copy of such written charge to be served upon such person who has allegedly committed any unlawful employment practice, hereinafter called the respondent, together with a notice of hearing before the Commission, or a member thereof, or before a designated agent, at a place therein fixed, not less than ten days after the service of such charge.

(c) The member of the Commission who filed a charge shall not participate in a hearing thereon or in a trial thereof.

(d) At the conclusion of a hearing before a member or designated agent of the Commission the entire record thereof shall be transferred to the Commission, which shall designate three of its qualified members to sit as the Commission and to hear on such record the parties at a time and place to be specified upon reasonable notice.

(e) All testimony shall be taken under oath.

(f) The respondent shall have the right to file a verified answer to such written charge and to appear at such hearing in person or otherwise, with or without counsel, to present evidence and to examine and cross-examine witnesses.

(g) The Commission or the member or designated agent conducting such hearing shall have the power reasonably and fairly to amend any written charge, and the respondent shall have like power to amend its answer.

(h) Any written charge filed pursuant to this section must be filed within one year after the commission of the alleged unlawful employment practice.

(i) If upon the record, including all the testimony taken, the Commission shall find that any person named in the written charge has engaged in any unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on such person an order requiring him to cease and desist from such unlawful employment practice and to take such affirmative action, including reinstatement or hiring of employees, with or without back pay, as will effectuate the policies of the Act. If upon the record, including all the testimony taken, the Commission shall find that no person named in the written charge has engaged or is engaging in any unlawful employment

practice, the Commission shall state its findings of fact and shall issue an order dismissing the said complaint.

(j) Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(k) The proceedings held pursuant to this section shall be conducted in conformity with the standards and limitations of sections 5, 6, 7, and 8 of the Administrative Procedure Act, Public Law 404, Seventy-ninth Congress, June 11, 1946.

JUDICIAL REVIEW

Sec. 8. (a) The Commission shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia) or, if the circuit court of appeals to which application might be made is in vacation, any district court of the United States (including the Supreme Court of the District of Columbia) within any circuit wherein the unlawful employment practice in question occurred, or wherein the respondent transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court to which petition is made a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and the order of the Commission. Upon such filing, the court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by section 10c and 10e of the Administrative Procedure Act.

(b) Upon such filing, the court shall cause notice thereof to be served upon such respondent and thereupon shall have jurisdiction of the proceeding and of the question determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(c) No objection that has not been urged before the Commission, its member, or agent shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, or agent, the court may order such additional evidence to be taken before the Commission, its members, or agent and to be made a part of the transcript.

(e) The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings and its recommendations, if any, for the modification or setting aside of its original order.

(f) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals, if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 230 and 240 of the Judicial Code, as amended U. S. C., title 28, secs. 340 and 347).

(g) Any person aggrieved by a final order of the Commission may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful employment practice in question was alleged to have been engaged in or wherein such person transacts business, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith served upon the Commission and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding certified by the Commission, including the pleadings and testimony upon which the order complained of was entered and the findings and order of the Commission. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (a), and shall have the same exclusive jurisdiction to grant to the petitioner or the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree en-

forcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission.

(h) Upon such filing by a person aggrieved the reviewing court shall conduct further proceedings in conformity with the standards, procedures, and limitations established by sections 10a and 10b of the Administrative Procedure Act.

(i) The commencement of proceedings under subsection (a) or (g) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

INVESTIGATORY POWERS

SEC. 9. (a) For the purpose of all investigations, proceedings, or hearings which the Commission deems necessary or proper for the exercise of the powers vested in it by this Act, the Commission, or any member thereof, shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any investigation, proceeding, or hearing before the Commission, its member, or agent conducting such investigation, proceeding, or hearing.

(b) Any member of the Commission, or any agent designated by the Commission for such purposes, may administer oaths, examine witnesses, and receive evidence.

(c) Such attendance of witnesses and the production of such evidence may be required, from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(d) In case of contumacy or refusal to obey a subpoena issued to any person under this Act, any district court of the United States, or the United States courts of any Territory or possession, or the Supreme Court of the District of Columbia, within the jurisdiction of which the investigation, proceeding, or hearing is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission shall have jurisdiction to issue to such person an order requiring him to appear before the Commission, its member, or agent, there to produce evidence if so ordered, or there to give testimony relating to the investigation, proceeding, or hearing.

(e) No person shall be excused from attending and testifying or from producing documentary or other evidence in obedience to the subpoena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

ENFORCEMENT OF ORDERS DIRECTED TO GOVERNMENT AGENCIES

SEC. 10. The provisions of section 8 shall not apply with respect to an order of the Commission under section 7 directed to any agency or instrumentality of the United States, or of any Territory or possession thereof, or any officer or employee thereof. The Commission may request the President to take such action as he deems appropriate to obtain compliance with such orders. The President shall have power to provide for the establishment of rules and regulations to prevent the committing or continuing of any unlawful employment practice as herein defined by any person who makes a contract with any agency or instrumentality of the United States (excluding any State or political subdivision thereof) or of any Territory or possession of the United States, which contract requires the employment of at least fifty individuals. Such rules and regulations shall be enforced by the Commission according to the procedure hereinbefore provided.

NOTICES TO BE POSTED

SEC. 11. (a) Every employer and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Commission setting forth excerpts of the Act and such other relevant information which the Commission deems appropriate to effectuate the purposes of the Act.

(b) A willful violation of this section shall be punishable by a fine of not less than \$100 or more than \$500 for each separate offense.

VETERANS' PREFERENCE

Sec. 12. Nothing contained in this Act shall be construed to repeal or modify any Federal or State law creating special rights or preferences for veterans.

RULES AND REGULATIONS

Sec. 13. (a) The Commission shall have authority from time to time to issue, amend, or rescind suitable regulations to carry out the provisions of this Act. If at any time after the issuance of any such regulation or any amendment or rescission thereof, there is passed a concurrent resolution of the two Houses of the Congress stating in substance that the Congress disapproves such regulation, amendment, or rescission, such disapproved regulation, amendment, or rescission shall not be effective after the date of the passage of such concurrent resolution nor shall any regulation or amendment having the same effect as that concerning which the concurrent resolution was passed be issued thereafter by the Commission.

(b) Regulations issued under this section shall be in conformity with the standards and limitations of the Administrative Procedure Act.

FORCEBLY RESISTING THE COMMISSION OR ITS REPRESENTATIVES

Sec. 14. Whoever shall forcibly resist, oppose, impede, intimidate or interfere with a member, agent, or employee of the Commission while engaged in the performance of duties under this Act, or because of such performance, shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both.

SEPARABILITY CLAUSE

Sec. 15. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than to those which it is held invalid shall not be affected thereby.

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